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U. S. Department of Agriculture

**TRESPASS
LAW ENFORCEMENT
HANDBOOK
FOREST SERVICE REGION 1**



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UNITED STATES
DEPARTMENT OF AGRICULTURE
FOREST SERVICE, MISSOULA, MONT.

EVAN W. KELLEY, REGIONAL FORESTER

TRESPASS
LAW ENFORCEMENT
HANDBOOK
FOREST SERVICE REGION 1

REVISED 1934

Prepared by
P. J. O'BRIEN

UNDER THE DIRECTION OF THE
REGIONAL FORESTER



UNITED STATES
GOVERNMENT PRINTING OFFICE
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FOREWORD

The object of this handbook is to give the members of the Forest Service of region 1 a ready reference to the gist of the several criminal trespass laws, both Federal and State, applicable to national forest lands and to the personal property of the Government. Instead of giving in full the text of each trespass law, it was deemed advisable to digest such laws, since it was felt that access to the full text of any statute was not necessary for the proper handling of a criminal trespass case by the field force.

While the various trespass statutes have been condensed, it is believed that forest officers can acquire from a digest a comprehensive knowledge of the substance of the trespass laws which they are required to enforce. Possessing this knowledge, forest officers ought to be able to apply it intelligently to the facts of a criminal or civil trespass case. The important things for forest officers to learn about law enforcement are the substance of criminal trespass statutes, the best methods of investigation, what constitutes negligence as a basis for the recovery of damages, and how to identify material evidence.

The technical work of handling criminal trespass cases conformably to the rules of practice in justices' and probate courts is generally attended to by the local county or prosecuting attorney, after consultation with the forest employee making the complaint.

However, it frequently happens that a criminal trespass case is tried before a justice of the peace in an isolated locality that is inconvenient for the county attorney to get to. Under such circumstances the complaining forest officer or employee should have sufficient knowledge of criminal procedure to assist the justice in handling the case properly. Justices of the peace and probate judges usually rely on the prosecuting officer of the county to advise them in

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matters of this kind. Some of them, however, handle the criminal trespass cases brought before them without assistance from the county or the prosecuting attorney. Whenever, therefore, a justice of the peace or probate judge is willing to proceed with the trial of a person charged with an offense within the jurisdiction of the court, the local forest officer should present the evidence of the guilt of the accused in its natural order, so that the justice's or probate court, as the case may be, may understand fully the facts relied upon to prove the guilt of the offender.

To enable forest officers to conduct the prosecution of an offender in the inferior courts referred to, an effort has been made in this digest to define the steps ordinarily to be taken in complying with the statutory requirements. These are very simple and with a little study can be comprehended easily by any forest employee. If the offense committed be a felony under the State law, the accused must be tried in the district or superior court of the county in which the crime was committed.

The codes of the various States contain more or less detailed outlines of the criminal procedure applicable in justices' and probate courts. Notes on the criminal practice of Montana and Idaho are here included for the guidance of forest officers. Generally speaking, such rules are framed for the protection of the accused. Hence it is that strict adherence to them by the prosecuting officer and the court is necessary. The prosecution is always required to prove the guilt of the accused beyond a reasonable doubt, and hearsay or opinion evidence, which is generally inadmissible, is not sufficient to establish a case under this rule.

The important part of law-enforcement work is investigation. In order properly to investigate a given case, the forest officer should have some idea of what constitutes evidence of the facts to be established. In this digest is given a brief summary of the nature and principles of evidence, followed by some useful hints on investigation. Experience has shown that some forest officers have unwittingly failed to appreciate the evidentiary nature of things and events connected with criminal and civil trespass

cases until opportunity for collecting definite information regarding them has vanished. It is realized, of course, that special talent is required for thorough investigative work and that not every forest officer can be a professional in this line. However, each one can improve his opportunity through a willingness to learn something of the methods commonly employed by experts.

It may require more time to put a case through a Federal court than through a State court. When the offense charged is against a Federal statute the first step in the proceeding, after the arrest of the offender, where arrest is considered necessary to prevent his escape, is a preliminary hearing before a United States commissioner, who, upon a showing of probable cause, will commit the defendant to jail or admit him to bail, pending action of the grand jury; after this the case is usually referred to the proper United States attorney for presentation to a Federal grand jury. When prompt action is necessary the case may be taken up directly by the assistant to the solicitor with the United States attorney. Generally, if the accused is indicted, he is tried at the following term of the United States district court. Consequently in some instances the presence of Government witnesses may be required on three different occasions to comply with the Federal procedure requirements. If the crime is a petty offense (a crime for which the penalty is a fine of not more than \$500, or imprisonment in a common jail without hard labor, for not more than 6 months, or both) or a misdemeanor (an offense not punishable by death or by imprisonment exceeding 1 year) the United States attorney may begin criminal action in the United States district court by what is known as an information or complaint without first obtaining an indictment. A preliminary hearing before a United States commissioner is not necessary in any case where the accused has been arrested after indictment by a Federal grand jury or after the filing of an information or complaint by the United States attorney.

The aid of the local justice or probate court may be invoked in criminal-trespass cases unless the act

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committed is a serious offense for which the State law does not afford an adequate penalty, or the act is not a violation of State law.

If the offender should be prosecuted in a Federal court a trespass report following in general form 874-20 should be submitted in triplicate to the regional forester for reference to the assistant to the solicitor for consideration before any court proceedings are initiated, unless the immediate arrest of the offender is necessary to protect the interests of the United States, or the trespasser is likely to escape or remove from the jurisdiction.

Forest officers and employees are empowered by Federal statute to make arrests without warrant for offenses against the national forest laws or regulations committed in their presence. With a warrant a forest officer or employee may make arrests for offenses against national forest laws and regulations committed in or out of his presence. As a general proposition, however, it is always safer to secure a warrant from a United States commissioner or from a justice of the peace or probate judge or other magistrate and use it as a visible sign of authority to make the arrest. Only in rare cases is it necessary to make an arrest without a warrant. When an arrest is made under the stress of circumstances, a full report of the facts of the trespass and of the action taken should be submitted immediately to the regional forester, so that the assistant to the solicitor or the law instructor may attend the preliminary hearing before the United States commissioner or the magistrate before whom the prisoner will be required to appear. If it be unusually difficult or impracticable in a criminal trespass case to assemble all the facts and have them in the hands of the regional forester in time for proper consideration prior to the preliminary hearing, a partial report should be sent by ordinary mail or night-letter telegram, or telephone.

Forest officers are not authorized to make arrests for offenses against Federal laws not applicable to national forests. United States marshals and their deputies are charged with that duty.

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The right of national forest employees to make arrests with or without warrant for violation of State fire, game, and other trespass laws is defined by the statutes of each State within this region. Laws on these subjects are exceedingly dissimilar, and in order to be sure of the exact extent of their authority in this respect forest officers selected as deputy fire or game wardens should refer to the information applicable to the State in which they are located given under the heading "Criminal procedure." When an arrest is made by a forest employee acting in his capacity of State deputy game or fire warden, the offender should be taken before a justice or probate court having jurisdiction for immediate trial, and all facts and evidence should be submitted promptly to the prosecuting attorney of the county where the offense was committed. If the offense be one over which the justice or probate court has no jurisdiction to impose punishment the offender will be committed to jail or bound over for trial in a higher court of the State. The prosecuting attorney should be given all the assistance possible in handling the case.

The fees of witnesses and other expenses incidental to a criminal-trespass trial in a State court are paid by the county in which the offense was committed. These expenditures do not include the costs of investigation and, as a rule, they are limited to those incurred after the State court has acquired jurisdiction over the offender through the issuance of a warrant for his arrest or his voluntary appearance for trial. Sometimes the State law limits the number of witnesses, to appear for the prosecution at the expense of the county, subject to the right of the presiding judge to increase the number should the administration of justice demand it. A similar rule is in force for preliminary hearings in criminal-trespass cases before the United States commissioners.

A forest employee will be reimbursed from forest funds for necessary expenses incurred in taking an offender arrested without warrant before the justice or other State court for formal accusation. After the filing of the formal criminal charges against the accused the court acquires jurisdiction, and all subsequent costs

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are legally chargeable to the county. Under special agreements the fish and game bureaus of Montana and Idaho have consented to reimburse forest employees for certain expenses necessary in making arrests without warrant for violations of the fish and game laws. (See circular letters on this subject.)

In order that forest employees may become familiar with the form and substance of the simpler papers used in criminal practice before justices' and probate courts and before United States commissioners, such as affidavits, complaints, warrants of arrests, search warrants, subpoenas, commitments, etc., specimen copies are printed in this book.

This handbook is divided into five parts. Part I contains the substance of Federal criminal statutes and regulations, concerning fire, game, property, timber, occupancy, grazing, and miscellaneous trespasses.

Part II covers the laws of Montana on all these subjects, except game, although the lines of classification of the different trespasses are not very clearly marked.

The trespass laws of Idaho are treated in part III.

Part IV contains a substantial outline of criminal procedure applicable to hearings before United States commissioners, justices of the peace, and probate courts in Idaho, and before justices' courts in Montana. To this have been added hints on investigative methods and a short explanation of the nature of evidence.

A number of specimen criminal forms in use by United States commissioners and State magistrates, and a special form of affidavit for use by investigative officers, constitute part V.

An index completes the work.

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While this handbook will not cover fully the handling of every trespass case to be dealt with in the field, it is felt that, if carefully studied, it will help materially in the investigation and prosecution of such cases. If a forest officer is in doubt as to the procedure in any case, and this handbook does not give him the help he needs, he should ask the regional forester for instructions.

As a general rule, the methods of investigations suggested in this book are applicable to civil cases and, in a limited sense, to all investigative work undertaken by national forest employees.

The text of each Federal statute digested herein is published in the United States Code and supplements thereto. The latter may be found in a lawyer's office.

Texts of State laws may be examined in the offices of local lawyers or county prosecuting attorneys.

PART I.—DIGEST OF FEDERAL TRESPASS LAWS

DIGEST OF FEDERAL FIRE TRESPASS LAWS

United States Code, title 18

OFFENSE	PENALTY
SECTION 88. The conspiring of two or more persons to set on fire any timber or forested lands of the United States.	A fine of not more than \$10,000, or imprisonment for not more than 2 years, or both.
SECTION 106. Willfully setting on fire or causing to be set on fire any timber, brush, or grass on the public domain, etc.	A fine of not more than \$5,000, or imprisonment for not more than 2 years, or both.
Leaving an unattended fire to burn near any timber or inflammable material on the public domain, etc.	The same.
SECTION 107. Building a fire in or near any forest, timber, or other inflammable material upon the public domain and leaving the same before it is totally extinguished.	A fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.
Regulation T-1 of the Secretary of Agriculture made pursuant to act of June 4, 1897 (30 Stat. 35). United States Code, title 16, section 551	
A. Setting on fire, or causing to be set on fire, any timber, brush, or grass on national forest lands without authority from a forest officer.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

OFFENSE	PENALTY
B. Building on national forest lands a camp fire in leaves, rotten wood, or other places where it is likely to spread, or against large or hollow logs or stumps where it is difficult to extinguish it completely.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
C. Building on national forest lands a camp fire in a dangerous place or during windy weather without confining it to holes or cleared spaces from which all vegetable material has been removed.	The same.
D. Leaving a camp fire without completely extinguishing it.	The same.
E. Building a camp fire on those portions of a national forest withdrawn, without a permit, etc.	The same.
F. Using steam engines or steam locomotives in timber-sale operations, etc., without approved spark arresters, unless oil is exclusively used for fuel.	The same.
G. See Regulation T-A.	The same.
H. Smoking during periods of fire danger publicly announced by the regional forester upon such areas as may be designated by him, which may include roads and trails and improved camping grounds but shall not include improved places of habitation.	The same.

OFFENSE

PENALTY

I. Going or being upon those portions of the national forests which may be designated by the regional forester as areas of fire hazard, except with permit issued by the local forest officer, but no permit shall be required of any actual settler going to or from his home.

A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

K. Using any automobile not provided with exhaust and muffler equipment in efficient condition on any road over lands of the United States within national forests or on any road acquired or maintained by the Secretary of Agriculture for the protection and administration of the national forests which shall have been posted by the Secretary of Agriculture as closed to such automobiles.

The same.

L. Carrying a firearm, except by authorized Federal or State officers, upon a portion of any national forest designated by the regional forester in time of fire or other public emergency.

The same.

OFFENSE	PENALTY
M. The throwing or placing of a burning cigarette, cigar, match, pipe heel, firecracker, or any ignited substance in any place where it may start a fire; and the discharging of any kind of fireworks on any portion of a national forest closed by order of the regional forester to the discharging of fireworks.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
N. Going or being upon those portions of the national forests which may be designated by the regional forester as areas of fire hazard, unless registered previously to entering upon such areas, at points designated by the local forest officer, but such registration shall not be required of any actual settler going to or from his home.	The same.

OFFENSE	PENALTY
O. Going or being upon any portion of a national forest designated by the regional forester as area of fire hazard without being equipped with fire-fighting tools, such as axes, shovels, and similar implements of the kind and number prescribed by the regional forester, when means of conveyance, such as an automobile or pack outfit, are available for carrying such tools. In the case of a camping party the person in charge will be held responsible for any violation hereof.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

Fire law policy and procedure

For a statement of fire law enforcement policy and procedure, and for hints regarding the collection of fire suppression costs, refer to the National Forest Manual, the Fire Guide, and the Administrative Guide.

In the preparation of reports on fire trespasses which occur on national forest lands, form 874-20 should be used as a guide. This is necessary in both *criminal and civil cases* in which proceedings in the Federal courts may be desirable. Where the fire occurs on private lands and it becomes necessary to suppress it at the expense of the Forest Service, the same standard form of report should be submitted.

Where summary criminal action is taken in a State court in a fire trespass case, it is not necessary to follow the outline, form 874-20, unless a demand for damages and/or fire suppression costs is to be made on the trespasser. A special report, however, showing the circumstances and outcome of the criminal proceedings must be submitted to the regional forester, on the

form furnished to forest supervisors by the regional office.

Rules for the appraisal of fire damage to Government timber in trespass cases are inserted in the Fire Guide. In the preparation of fire trespass reports, these rules should not be confused with those outlined in the same pamphlet for use in appraising fire damage for statistical purposes.

An up-to-date list of cooperating State prosecuting attorneys and United States commissioners is given in the Administrative Guide.

A specimen fire trespass report is attached to the Fire Guide.

When a trespass constitutes a violation of a regulation of the Secretary of Agriculture, such as smoking on a closed area, or going upon a closed area without written permission from a forest officer, a special report in triplicate should be submitted to the regional forester. Hints on how to prepare this kind of report are published in the Fire Guide. A report of this kind is substantially different from other trespass reports.

DIGEST OF FEDERAL GAME TRESPASS LAWS

United States Code, title 16

OFFENSE	PENALTY
SECTIONS 703 and 707. Hunting, capturing, killing, attempting to take, capture, or kill, possessing, offering for sale, selling, offering to purchase, purchasing, delivering for shipment, shipping, causing to be shipped, delivering for transportation, transporting, causing to be transported, or receiving for shipment or export any migratory bird, or any part, nest, or egg of any such bird, except as is authorized by the Secretary of Agriculture.	A fine of not more than \$500, or imprisonment for not more than 6 months, or both.

OFFENSE	PENALTY
<p>SECTIONS 852 to 853. Delivering to any common carrier for transportation to or through any State or Territory, or receiving by any common carrier for such purpose, or transporting by any means from any State or Territory to or through any other State or Territory or foreign country, any large-mouth black bass or any small-mouth black bass which has either been caught, sold, purchased, or possessed in violation of the law of the State or Territory wherein the delivery for transportation is made or the transaction or carrying thereof begins.</p>	<p>A fine of not more than \$200, or imprisonment for not more than 3 months, or both.</p>

United States Code, title 18

<p>SECTION 392. The delivery by anyone to a common carrier for transportation or the acceptance by a common carrier for the purpose of transporting from one State to another of the dead bodies or parts of any wild animal or bird killed or shipped in violation of the laws of the State in which they are killed or from which they are to be shipped.</p>	<p>A fine not exceeding \$200.</p>
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OFFENSE

PENALTY

SECTION 393. The failure to mark plainly and clearly on the outside of packages containing dead bodies, plumage, or parts of game animals or wild birds shipped in interstate or foreign commerce the name and address of the shipper and the nature of the contents.

A fine not exceeding \$200.

SECTION 145. The hunting, trapping, capturing, willfully disturbing, or killing of any kind of bird on any lands of the United States set apart by law, proclamation, or Executive order as a breeding ground, except under regulations made by the Secretary of Agriculture, or the willful injury, molestation, or destruction of any property of the United States on any such lands.

A fine of not more than \$500, or imprisonment for not more than 6 months, or both.

Regulation T-7 of the Secretary of Agriculture

OFFENSE	PENALTY
Going or being upon national forest lands, or in or on the waters thereof, with intent to hunt, catch, trap, willfully disturb, or kill any kind of game or nongame animal, game or nongame bird, or fish, or to take the eggs of any such bird, in violation of the laws of the United States or any regulation made in pursuance thereof or of the laws of the State in which such lands or waters are situated.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

Regulation T-8 of the Secretary of Agriculture

The following acts are prohibited upon any national forest lands embraced within the boundaries of a national game or bird refuge, preserve, sanctuary, or reservation, established by or under authority of an act of Congress:

A. Hunting, trapping, catching, disturbing, or killing any kind of game or nongame animal, or game or nongame bird, or taking the eggs of any such bird, except when authorized by permit issued by, or under the authority of, the forester.

A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

OFFENSE	PENALTY
B. Carrying or having possession of firearms, without the written permission of the forest supervisor or such other officer as he may name.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
C. Permitting dogs to run at large, or having in possession dogs not in leash or confined.	
D. Camping without permit issued by a forest officer, except on areas which may be specifically excepted by the regional forester.	

Regulation T-8½ of the Secretary of Agriculture

<p>Upon national forest lands designated under Regulation G-20 the following acts are prohibited: Hunting, fishing, trapping, catching, disturbing, or killing any kind of game, or nongame, or furbearing animals, game or nongame fish, or game or nongame birds, or taking the eggs of any such fish or bird, except during the hunting, trapping, and fishing seasons established by the Secretary and in accordance with the terms and conditions of a permit issued by a duly authorized officer, which is valid and subsisting at the time.</p>	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
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Trespass Outline 874-20 modified to meet the circumstances, should be used as a guide in the preparation of reports on game trespasses against the Federal laws and regulations of the Secretary of Agriculture. Do not follow in this class of cases the special law enforcement outline used for reports on game trespasses against State laws.

DIGEST OF FEDERAL PROPERTY TRESPASS LAWS

United States Code, title 18

OFFENSE	PENALTY
SECTION 99. Robbing another of any kind or description of personal property belonging to the United States, or feloniously taking or carrying away the same.	A fine of not more than \$5,000 or imprisonment for not more than 10 years, or both.
SECTION 100. Embezzling, stealing, or purloining any money, property, record, voucher, etc., of the United States.	A fine of not more than \$5,000, or imprisonment for not more than 5 years, or both.
SECTION 101. Knowingly concealing, receiving, or aiding in concealing, or retaining in possession any money, property, record, or voucher, etc., which had theretofore been embezzled, stolen, or purloined.	The same.
SECTION 110. Knowingly opening any gate or destroying the same or any fence, hedge, or wall inclosing lands of the United States which have been reserved or purchased pursuant to law, or driving stock, etc., on such lands.	A fine of not more than \$500, or imprisonment for not more than 1 year, or both.
SECTION 111. Removing, defacing, destroying, or changing any section corner, witness tree, or meander post on any Government line of survey, or any monument or bench mark.	A fine of not more than \$250, or imprisonment for not more than 6 months, or both.

OFFENSE

PENALTY

SECTION 116. Willfully or maliciously injuring or, destroying any telephone, or telegraph line or part thereof, the property of the United States, or obstructing, delaying, or hindering the transmission of any communication over such lines.

A fine of not more than \$1,000, or imprisonment for not more than 3 years, or both.

SECTION 234. The concealing, removing, obliterating, stealing, or destroying of any map, record, book, proceeding, paper, or document on file in any public office or filed with any judicial or public officer of the United States.

A fine of not more than \$2,000, or imprisonment for not more than 3 years, or both.

SECTION 82. The taking and carrying away or taking for his own use, or for the use of another, with intent to steal or purloin, or to willfully injure or commit any depredation against any property of the United States, or any branch or department thereof.

A fine of not more than \$10,000, or imprisonment for not more than 10 years, or both.

SECTION 408. Transporting or causing to be transported in interstate or foreign commerce, a motor vehicle, knowing the same to have been stolen, or to receive, conceal, store, barter, sell, or dispose of such motor vehicle, knowing the same to have been stolen.

A fine of not more than \$5,000, or imprisonment for not more than 5 years, or both.

OFFENSE

PENALTY

SECTION 409. Stealing, unlawfully taking, or obtaining by fraud, from any railroad car, station house, platform, depot, or truck, with intent to convert to his own use, any goods or chattels which are a part of or constitute an interstate or foreign shipment of freight or express, or to buy, or receive, or have in possession any of such goods or chattels, knowing the same to have been stolen.

A fine of not more than \$5,000, or imprisonment for not more than 10 years, or both.

SECTION 317. Stealing, secreting, or embezzling mail matter, or taking any mail out of any post office, station or depository, or from the custody of any letter or mail carrier.

A fine of not more than \$2,000, or imprisonment for not more than 5 years, or both.

SECTION 235. It is unlawful for any custodian of a Government record, proceeding, map, book, document, or other thing, to willfully conceal, remove, mutilate, obliterate, falsify, or destroy the same.

A fine of not more than \$2,000, or imprisonment for not more than 3 years, or both; and the offender shall forfeit his office and be forever disqualified from holding any office under the Government of the United States.

SECTION 173. It is unlawful for any disbursing officer of the United States to convert to his own use, or loan with or without interest, or deposit in any place not authorized by law, any public money entrusted to him.

A fine of not more than the amount embezzled, or imprisonment for not more than 10 years, or both.

OFFENSE

PENALTY

SECTION 176. Failure of any officer or agent of the United States to render the accounts required by law relative to public money received by him, which he is not authorized to retain as salary, pay, or emolument.

A fine equal to the amount unlawfully retained and imprisonment for not more than 10 years.

United States Code, title 16

SECTION 433. Appropriating, excavating, injuring, or destroying any prehistoric ruin or monument upon lands owned or controlled by the United States without the permission of the secretary of the department having jurisdiction over the lands.

A fine of not more than \$500, or imprisonment for not more than 90 days, or both.

Regulation T-3 of the Secretary of Agriculture

(Applies to lands of the United States within national forests)

A. The willful tearing down or defacing of any notice of the Forest Service.

A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

B. The going or being upon such lands with intent to destroy, molest, disturb, or injure property used or acquired for use by the United States in the administration of the national forests.

The same.

OFFENSE	PENALTY
C. Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of the national forests.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
D. Mutilating, defacing, or destroying objects of natural beauty or of scenic value on such lands.	The same.
E. Damaging and leaving in a damaged condition roads or trails which are under the jurisdiction of the Forest Service.	The same.
F. Entering, occupying, or using without permission from a forest officer any building of the United States used by the Forest Service in connection with the administration of a national forest, except in case of emergency, to prevent suffering.	The same.
G. Leaving any building of the United States used by the Forest Service in connection with the administration of a national forest without placing the building in a condition as sanitary as when entered.	The same.

OFFENSE

PENALTY

H. Driving prohibited vehicles upon any road which is not a part of a State or county highway system and is located upon national forest lands, during any period when such road or trail has been closed to vehicular traffic by authority of the regional forester through the posting of proper notices of that fact along said road or trail, but nothing herein contained shall deprive actual residents within the national forests from reasonable opportunity to travel to and from their homes.

A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

NOTE.—In the preparation of property trespass reports, form 874-20 should be used as a guide.

For administrative policy in the care and protection of Government property, see the National Forest Manual, the Property Regulations of the U.S. Department of Agriculture, and the Administrative Guide.

DIGEST OF FEDERAL TIMBER TRESPASS LAWS

United States Code, title 18

OFFENSE

PENALTY

SECTION 103. Cutting, wantonly destroying, or causing to be destroyed any timber growing on the public lands of the United States, or removing or exporting the same.

A fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.

OFFENSE	PENALTY
SECTION 104. Cutting, injuring, or destroying wantonly any tree growing or standing upon lands of the United States reserved by law or regulations, etc.	A fine of not more than \$500, or imprisonment for not more than 1 year, or both.
SECTION 105. Cutting, boxing, chipping, or chopping any tree on land of the United States for the purpose of collecting pitch or turpentine, etc.	The same.

Regulation T-5 of the Secretary of Agriculture

(Applies only to timber on national forest lands)

A. The cutting, killing, destroying, girdling, chipping, chopping, boxing, injuring, or otherwise damaging, or the removal of any timber or young tree growth, except as is authorized by law or regulation of the Secretary of Agriculture.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
B. The damaging, under any contract of sale or permit, of any living tree before it is marked or otherwise designated for cutting by a forest officer.	The same.
C. The removal from the place designated for scaling, measuring, or counting of any timber cut under contract of sale or permit before it is scaled, measured, or counted, and stamped by a forest officer.	The same.

OFFENSE	PENALTY
<p>D. The stamping, except by a forest officer, of any timber belonging to the United States, either with the regulation marking tools or with any instrument having a similar design: <i>Provided</i>, That timber lawfully cut from public land which is subsequently included within a national forest, may be removed within a reasonable time after the inclusion of such land in a forest: <i>Provided further</i>, That the term "timber" as used in this regulation shall be deemed and taken to mean trees of a character or sort that may be used in any kind of manufacture, or the construction of any article, or for fuel.</p>	<p>A fine of not more than \$500, or imprisonment for not more than 12 months, or both.</p>

NOTE.—Definition of willful and innocent timber trespasses is published in the trespass section of the National Forest Manual. In the same manual will be found instructions as to seizure, damages, waste, injunction, settlement of cases, administrative remedies, legal or civil remedies, and the prevention of timber trespasses.

In the preparation of a timber trespass report form 874-20 should be used as a guide if it be necessary to submit the case to the regional forester for settlement, for civil suit, or for criminal prosecution. If it be intended to prosecute the trespasser for the criminal offense a separate report must be submitted. All reports of this character must be submitted in triplicate.

DIGEST OF FEDERAL OCCUPANCY TRESPASS LAWS

United States Code, title 43

OFFENSE	PENALTY
SECTION 1061. The inclosure by any person, party, association, or corporation of any public land of the United States, or the maintaining of such inclosure, without color of title or lawful claim, or advising, counseling, or assisting in the inclosure of or maintenance of the inclosure of such lands.	A fine of not more than \$1,000, or imprisonment for not exceeding 1 year, or both.

Regulation T-9 of the Secretary of Agriculture

(Applies to lands of the United States within national forests)

A. Squatting or making settlement on lands of the United States within national forests, except in accordance with the act of June 11, 1906 (34 Stat. 233; U.S. Code, title 16, sec. 506).	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
B. Constructing or maintaining any kind of works, structure, fence, or inclosure, conducting any kind of business enterprise, or carrying on any kind of work, without a permit, except as is otherwise allowed by law or regulation and except upon a claim for actual use, improvement, and development of the claim consistent with the purpose for which it was initiated.	The same.

OFFENSE	PENALTY
C. The placing by any person, association, or corporation, without written permission from a forest officer, of stock within an inclosure designated by the Forest Service as a pasture for tourists' stock, and allowing such stock to remain in the inclosure for more than 48 hours in succession, or more than twice during any calendar year.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
D. Having or leaving in an exposed or unsanitary condition on national forest lands camp refuse or debris of any description, or depositing on national forest lands or being or going thereon and depositing in the streams, lakes, or other waters within or bordering upon the national forests any substance or substances which pollute or are liable to cause the pollution of the said streams, lakes, or waters.	The same.
E. The discharge of firearms in the vicinity of camps, residence sites, recreation grounds and areas, and over lakes or other bodies of water, adjacent to or within such areas, whereby any person is exposed to injury as a result of such discharge.	The same.

OFFENSE

PENALTY

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| <p>F. Taking or allowing cattle, sheep, hogs, or other animals upon, or in any other manner using or otherwise going or being upon, any portion of a national forest which may be closed to use by the regional forester because of danger from the spread of any communicable or infectious disease of cattle, sheep, hogs, or other animals, such as the foot-and-mouth disease or the scabies, except under permit issued by a forest officer, not in conflict with any State or Federal quarantine law or regulation, but no permit shall be required of any actual settler going to or from his home.</p> | <p>A fine of not more than \$500, or imprisonment for not more than 12 montns, or both.</p> |
| <p>G. Occupying a public camp ground upon national forest lands for a period of time in excess of that established by the regional forester under the provisions of regulation L-19.</p> | <p>The same.</p> |
| <p>H. The operation of motor boats on artificial bodies of water without adequate devices to prevent unnecessary noises, and/or at a rate of speed in excess of 10 miles per hour when within 300 feet of bathers, small boats, or established boat landings.</p> | <p>The same.</p> |

OFFENSE	PENALTY
<p>REG. L-19. Public camp grounds established upon national forest lands which are improved by the Forest Service, either from appropriations made for such purposes or in cooperation with other public or private agencies, are for transient use by the traveling public and shall not be occupied for extended periods except under special use permit issued by the forest supervisor. When the public interest so requires, the regional forester may fix a maximum number of days during which any person or group of persons may occupy a designated camp ground, notice of which shall be given by a sign posted within said camp ground and occupancy of the camp ground for a period in excess of that established by the regional forester is prohibited.</p>	<p>A fine of not more than \$500, or imprisonment for not more than 12 months, or both.</p>

NOTE.—For a discussion of land policy, uses, sanitation, lawful land claims, ditches, reservoirs, rights-of-way, settlements, permits, camping grounds, railroads, easements, residence sites, roads, water rights, telephone, telegraph, and transmission lines, etc., refer to the lands section of the National Forest Manual.

In the preparation of occupancy trespass reports, Form 874-20 should be used as a guide.

DIGEST OF FEDERAL GRAZING TRESPASS LAWS AND REGULATIONS

Regulation T-6 of the Secretary of Agriculture

(Applies to lands of the United States within national forests)

OFFENSE	PENALTY
A. The grazing upon or driving across any national forest (land) of any livestock without permit, except such stock as are specifically exempted from permit by the regulations of the Secretary of Agriculture, or the grazing upon or driving across any national forest (land) of any livestock in violation of the terms of a permit.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
B. The grazing of stock upon national forest land within an area closed to the grazing of that class of stock.	The same.
C. The grazing of stock by a permittee upon an area withdrawn from use for grazing purposes to protect it from damage from the improper handling of stock, after the receipt of a notice from an authorized forest officer of such withdrawal and of the amendment of the grazing permit.	The same.
D. Allowing stock not exempt from permit to drift and graze on a national forest without permit.	The same.

OFFENSE

PENALTY

E. The violation of any of the terms of a grazing or crossing permit.

A fine of not more than \$500, or imprisonment for not more than 12 months, or both.

F. The refusal to remove stock upon the receipt of instructions from an authorized forest officer when an injury is being done the national forest by reason of improper handling of the stock.

The same.

NOTE.—Regulations and instructions concerning civil remedies for grazing trespasses, injunctions, compromise of cases, restraint of trespassing stock, procedure, reports, measure of damages, etc., are published in the trespass section of the National Forest Manual and in special circular letters.

Regulation T-12 of the Secretary of Agriculture relating to impounding of livestock

Regulation T-12. Livestock found trespassing on national forest land or any other lands under the control of the Forest Service if not removed upon reasonable notice may be impounded by forest officers. No livestock will be impounded until known owners of the livestock are given written notice of intention to impound and at least 15 days have elapsed from date notice is first posted at the county courthouse and published in a newspaper serving the community within or adjacent to the area on which the trespass is occurring, *provided*, That if all owners are known and are given written notice advertising and posting may be dispensed with. Such notices shall state the kind of livestock and the area on which it is trespassing, that it will be impounded on or after a specified date, and when impounded will be sold in default of redemption by the owner. No sale will be made until 5 days have elapsed from the date the livestock was impounded.

If the stock be not redeemed on or before the date fixed for its sale, it shall be sold at public sale to the highest bidder. If no bid is received, in the discretion of forest officers the stock may be sold at private sale or be condemned and destroyed or otherwise disposed of. The owner may redeem the stock by submitting proof of ownership and paying all expenses incurred by the United States in advertising, gathering, pasturing, and impounding it. Upon the sale of any stock in accordance with this regulation the forest officer shall issue a certificate or bill of sale.

NOTE.—Appropriate forms of notices to known owners, and notice for publication in case of unknown owners of livestock found trespassing on national-forest lands are on file in the offices of forest supervisors.

A specimen grazing trespass report is published in the Administrative Guide under the caption, "Law Enforcement."

The certificate of sale referred to above is outlined in the National Forest Manual under the headnote, "Impounding of Livestock."

Instructions for the collection of damages resulting from trespass by livestock on privately owned land, the exclusive use of which has been granted to the Government under regulation G-4, are outlined in special circular letters of the regional forester. A civil suit to recover the value of the grass consumed, damaged, and/or destroyed by such trespassing livestock may be instituted by the United States.

Rules for estimating the commercial or market value of the grass or forage consumed, destroyed, or damaged by the trespassing livestock, and other elements of damages, such as costs of investigation, are published in the trespass section of the National Forest Manual and in special circular letters of the regional forester. The method of describing such damages and the evidence of them necessary to sustain a court proceeding for their recovery are indicated in the specimen grazing trespass report mentioned above.

United States Code, title 21

OFFENSE	PENALTY
<p>SECTION 115. The receiving by any railroad company or the owners of any steam or sailing vessel for transportation or the transportation from any State to another of any livestock affected with any contagious, infectious, or communicable disease, or the delivery by any person to any railroad company or owner of a vessel for transportation of stock so infected; also the driving of infected cattle from one State to another.</p>	<p>A fine of not less than \$100 nor more than \$5,000, or imprisonment for not more than 1 year, or both.</p>
<p>SECTION 111. The violation of any of the terms of the stock sanitary regulations made by the Secretary of Agriculture to prevent the introduction or dissemination of contagious, infectious, or communicable animal diseases through the movement of stock from one State to another.</p>	<p>A fine of not less than \$100 nor more than \$1,000, or imprisonment for not more than 1 year, or both.</p>

DIGEST OF MISCELLANEOUS FEDERAL TRESPASS LAWS

United States Code, title 18

OFFENSE	PENALTY
SECTION 76. It is unlawful for any person falsely to assume or pretend to be an officer or employee of the United States with intent to defraud the United States or any person, or to demand or obtain in such pretended character any money, paper, document, or other valuable thing.	A fine of not more than \$1,000, or imprisonment for not more than 3 years, or both.
SECTION 75. Administering oaths or taking or certifying acknowledgements relative to any bond, contract, proposal, undertaking, or other matter in which an oath is required by law or regulation, unless the person taking such oath be present.	A fine of not more than \$2,000, or imprisonment for not more than 2 years, or both.
SECTION 88. The conspiring of two or more persons either to commit an offense against the United States or to defraud the United States in any manner or for any purpose. If one or more of such parties do any act to effect the object of the conspiracy, each of the persons involved is criminally liable.	A fine of not more than \$10,000, or imprisonment for not more than 2 years, or both.

OFFENSE

PENALTY

SECTION 231. *Perjury*.—

The testifying by any person who has taken the oath required by a Federal statute to testify and depose truthfully willfully contrary to such oath as to any material fact or subscribing falsely as to any such fact.

A fine of not more than \$2,000, and imprisonment for not more than 5 years.

SECTION 92. Taking or carrying away without authority from the United States, from the place where it is filed or kept by authority of the United States, any certificate, affidavit, deposition, written statement of facts, receipt, voucher, record, paper, etc., with intent to use it to procure payment of money from the United States.

A fine of not more than \$5,000, or imprisonment for not more than 10 years, or both.

SECTION 112. The use of threats or force to hinder, interrupt, or prevent the survey of public lands.

A fine of not more than \$3,000 and imprisonment for not more than 3 years.

SECTION 76a. The unlawful manufacture, sale, or possession of any badge, identification card, or other insignia prescribed by the head of any department or independent office of the United States, for use by its officers or employees, is forbidden, and the same rule applies to imitations.

A fine of not more than \$250, or imprisonment for not more than 6 months, or both.

OFFENSE

PENALTY

SECTION 80. The making or causing to be made, or presenting or causing to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, of any claim upon or against the Government of the United States or any department or officer thereof, when such claim is known to be false, fictitious, fraudulent; or for the purpose of obtaining or aiding in obtaining the payment or approval of such claim, making or using, or causing to be made or used, any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, when the same is known to contain a fraudulent or fictitious statement or entry, etc.

A fine of not more than \$10,000, or imprisonment for not more than 10 years, or both.

SECTION 184. Contracting to pay for the construction, repairing, or furnishing of a public building more than the amount appropriated for such purpose.

A fine of not more than \$2,000 and imprisonment for not more than 2 years.

OFFENSE	PENALTY
SECTION 91. Promising, offering, or giving any money, or other valuable thing to any officer of the United States, with intent to influence his decision or action on any question, matter, cause, or proceeding pending before him.	A fine of not more than three times the value of the thing offered, promised, or given and imprisonment for not more than 3 years.
SECTION 171. The commission by any officer or employee of the United States, under color of his employment, of any act of extortion.	A fine of not more than \$500, or imprisonment for not more than 1 year, or both.
SECTION 242. The conspiring of one or more persons to deter by force, intimidation, or threat any person from testifying for the United States fully and truthfully in any court of the United States or before any United States Commissioner.	A fine of not more than \$5,000, or imprisonment or not more than 6 years, or both.
SECTIONS 208 to 212. The soliciting or receiving by any Federal officer or employee of any money from any other Federal officer or employee, or the degrading, discharging, or promotion of any Federal employee for failure to make any political contribution. It is also contrary to law for a Federal officer or for anyone to solicit funds for political purposes in a public building.	A fine of not more than \$5,000, or imprisonment for not more than 3 years, or both.

OFFENSE

PENALTY

SECTION 189. The making by any officer, clerk, agent, or other person holding any office or employment under the Government of the United States and being charged with the duty of keeping accounts and records of any kind of any false or fictitious entry or record of any matter relating to or connected with his duties, with intent to deceive, mislead, injure, or defraud the United States or any person, or with like intent aiding or abetting any such officer, clerk, or agent, or other person in so doing * * *.

A fine of not more than \$5,000, or imprisonment for not more than 10 years, or both.

SECTION 262. Falsely making, forging, counterfeiting, or altering, with intent to defraud, any obligation or other security of the United States.

A fine of not more than \$5,000 and imprisonment for not more than 15 years.

SECTION 265. Uttering, passing, selling, or attempting to utter, pass, or sell, with intent to defraud, any falsely made, forged, counterfeited, or altered obligation or other security of the United States.

The same.

OFFENSE

PENALTY

SECTION 245. Knowingly and willfully obstructing, resisting, or opposing any officer of the United States, or other person duly authorized to serve or execute any mesne process or warrant, or any rule or order, or any other legal or judicial writ or process of any court of the United States, or United States commissioner.

A fine of not more than \$300 and imprisonment for not more than 1 year.

SECTION 146. Falsely making, forging, or counterfeiting, any form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or branch thereof, or knowingly altering the same, or knowingly passing, uttering, publishing, or selling a false, forged, counterfeited, or altered request.

A fine of not more than \$5,000 or imprisonment for not more than 10 years, or both.

SECTION 103a. Mining and removing coal of any character from beds or deposits in lands of the United States, with intent wrongfully to appropriate, sell, or dispose of the same.

A fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

OFFENSE

PENALTY

SECTION 357. Using an official envelop, label, or endorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, package, packet, or other mail matter

A fine of not more than \$300.

SECTION 324. Knowingly and willfully obstructing or retarding the passage of the mail or any carriage, horse, driver, or carrier, car, steamboat, vessel, or other conveyance carrying same.

A fine of not more than \$100, or imprisonment for not more than 6 months, or both.

SECTION 321. Willfully or maliciously injuring any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or willfully taking or stealing such mail from such letter box, or receptacle.

A fine of not more than \$1,000 or imprisonment for not more than 3 years.

SECTION 117. Knowingly issuing or publishing any counterfeit weather forecast or warning of weather conditions and falsely representing such forecast or warning to have been issued by the Weather Bureau, United States Signal Service, or other branch of the Government service.

A fine of not more than \$500, or imprisonment for not more than 90 days, or both.

OFFENSE	PENALTY
<p>SECTION 54. It is unlawful for two or more persons to conspire to prevent, by force, intimidation, or threat, any officer of the United States from performing his duties, or inducing him by like means to leave any place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office.</p>	<p>A fine of not more than \$5,000, or imprisonment for not more than 6 years, or both.</p>
<p>SECTION 72. Making, forging, counterfeiting, or altering any bond, bid, proposal, contract, guaranty, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or transmitting or presenting any of such writings to any office or officer of the United States for the purpose of defrauding the United States, knowing the same to be false, forged, counterfeited, or altered.</p>	<p>A fine of not more than \$1,000, or imprisonment for not more than 10 years, or both.</p>

OFFENSE	PENALTY
SECTION 73. Making, forging, counterfeiting, or altering any deed, power of attorney, order, certificate, receipt, contract or other writing for the purpose of receiving from the United States any sum of money; or transmitting, knowingly any of such writings to any office or officer of the United States in connection with any account or claim, with intent to defraud the United States.	A fine of not more than \$1,000, and imprisonment for not more than 10 years.

United States Code, title 23

SECTION 46. Knowingly making any false statement, or false representation, or false report to the Secretary of Agriculture, as to the character, quality, quantity, or cost of the material used or to be used, or of the work performed or to be performed, or the costs of the same, in connection with the construction of any highway or forest road under the Federal Highway Act.	A fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.
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United States Code, title 5

OFFENSE	PENALTY
SECTION 789. Making any affidavit or statement required by the United States Employees Compensation Commission in connection with any claim for partial disability under section 754, title 5, United States Code, or in connection with any claim for compensation for personal injury, knowing it to be false.	A fine of not more than \$2,000, or imprisonment for not more than 1 year, or both.

Regulation T-A, Secretary of Agriculture

Interfering on lands of the United States within a national forest, by intimidation, threats, assault, or otherwise, with any person engaged in the protection, improvement, or administration of the national forests is hereby prohibited.	A fine of not more than \$500, or imprisonment for not more than 12 months, or both.
SECTION 637. Willfully or corruptly making any false representations concerning any person examined (by the United States Civil Service Commission), or furnishing any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined; being appointed, employed, or promoted.	A fine of not less than \$100, nor more than \$1,000, or imprisonment for not less than 10 days nor more than 1 year, or both.

United States Code, title 49

OFFENSE	PENALTY
SECTION 181 (d). Fraudulently forging, counterfeiting, altering, or falsely making, any certificate authorized to be issued, by the air commerce act of 1926, or knowingly using or attempting to use such fraudulent certificate.	A fine of not more than \$1,000, or imprisonment for not more than 3 years, or both.
SECTION 181 (e). Interfering with air navigation by maintaining any false light or signal, or knowingly removing, extinguishing, or interfering with the operation of any true light or signal.	A fine of not more than \$5,000, or imprisonment for not more than 5 years, or both.

NOTE.—It is unlawful to operate any aircraft in interstate commerce unless under a certificate issued by the United States Secretary of Commerce. And no airman shall operate any aircraft in interstate commerce until he shall have received from the Secretary an airman's certificate.

United States Code, title 40

SECTION 322. Requiring any laborer or mechanic to work more than 8 hours in any 1 calendar day, on any public work of the United States, except in case of extraordinary emergency.	A fine of not more than \$1,000, or imprisonment for not more than 6 months, or both.
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United States Code, title 16

OFFENSE	PENALTY
SECTION 471. Failure to comply with the joint rules and regulations of the Secretary of Agriculture and the secretary of any other department of the Federal Government, for the administration of certain tracts of timber-producing lands within other Government reservations which have been set aside for management by the Department of Agriculture (not including reservations for national parks, phosphate and other mineral deposits, national monuments, and Indian reservations).	A fine of not more than \$500, or imprisonment for not more than 1 year, or both.

CLAIMS AGAINST THE UNITED STATES

By section 502, title 16, United States Code, the Secretary of Agriculture is authorized to reimburse owners of horses, vehicles, and other equipment lost, damaged, or destroyed while being used for necessary fire fighting, trail, or official business.

Section 215, title 31, United States Code, provides, that the head of each department and establishment acting on behalf of the United States, may consider, ascertain, adjust, and determine any claim not in excess of \$1,000, for damage to or loss of privately owned property caused by the negligence of any officer or employee of the Government acting within the scope of his employment and certify the same to Congress for action, and section 236, title 31, provides that any claim or demand filed in the General Accounting Office which contains elements of legal liability or equity deserving of the consideration of Congress, shall be submitted to Congress with a special report and the recommendations of the Comptroller General.

Under section 574, title 16, United States Code, the Secretary of Agriculture may compensate owners for private property damaged or destroyed by employees of the United States, in connection with the protection, administration, and improvement of the national forests. No claim in excess of \$500 shall be paid. Negligence of the employee should not be evident.

NOTE.—Frequently national forest employees are required to submit reports on claims of the character defined by the statutes digested above. The investigative principles of trespass are applicable to this class of claims, although the substance and arrangement of facts in the required reports are different.

Special outlines for reports on the claims referred to in the statutes mentioned are given in the National Forest Manual and in the Administrative Guide.

Before the preparation of any report on a claim against the United States, the Administrative Guide should be consulted for policy and procedure. In some instances, it is necessary to submit the facts on a Bureau of the Budget standard form.

Part II.—DIGEST OF MONTANA TRESPASS LAWS

DIGEST OF MONTANA FIRE, TRESPASS, AND BRUSH DISPOSAL LAWS

Montana Revised Code of 1921

OFFENSE	PENALTY
SECTION 11476. The willful and malicious burning by anyone of any bridge valued at more than \$50 or any building, snowshed, vessel, grain stack, growing or standing grain, grass, tree, or fence, not his property.	Imprisonment in the State prison for not less than 1 year nor more than 10 years.
SECTION 1834. The failure of any paid fire warden (and sheriffs, deputy sheriffs, game wardens, and deputy game wardens are deemed paid fire wardens) to prosecute, etc., for violations of the law.	A fine of not less than \$20 nor more than \$1,000 or imprisonment in the county jail for not less than 10 days nor more than 12 months, or both, and forfeiture of office.

OFFENSE

PENALTY

SECTION 1835. The failure of able-bodied citizens between the ages of 18 and 50 years, residing in the vicinity upon the formal request of a fire warden, to assist in putting out fires, except for good and sufficient reason, it being provided that no citizen shall be called upon to fight a fire a total of more than 5 days in 1 year.

SECTION 1838. Destroying, defacing, removing, or disfiguring fire notices posted under provisions of the act.

SECTION 1839. The failure of a county attorney or of any magistrate to prosecute, upon proper complaint filed with him, for a violation of the act, etc.

SECTION 2768. The failure of any magistrate having jurisdiction to prosecute for the violation of the act.

SECTION 11482. Building a fire upon the enclosed land or premises of another without the consent of the owner of such land or premises.

A fine of not less than \$15 nor more than \$50, or imprisonment in the county jail for not less than 1 nor more than 30 days, or both.

A fine of not less than \$15 nor more than \$250, or imprisonment in the county jail for not less than 10 days nor more than 3 months, or both.

A fine of not less than \$100 nor more than \$1,000 and the declaring of the office vacant by the district court.

A fine of not less than \$100 nor more than \$1,000 and dismissal from office.

A fine of not less than \$10 nor more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

OFFENSE	PENALTY
SECTION 2766. The setting or leaving by any person on any land within the State of any fire which shall spread and damage or destroy property of any kind that is not his own.	A fine of not less than \$10 nor more than \$500.
The malicious setting by any person of a fire on his own or on another's land, with intent to destroy property not his own, etc.	Imprisonment in the State penitentiary for not less than 1 year nor more than 50 years.
The kindling during the closed season by anyone of a camp fire on land not his own in or dangerously near any forest material, and the leaving of such fire unquenched.	A fine of not less than \$10 nor more than \$100 or imprisonment in the county jail for not more than 60 days.
Throwing away any lighted cigar, cigarette, or matches, or using firearms, or any other act which shall start a fire in forest material not one's own, and leaving the same unquenched.	The same.
SECTION 2769. The setting out or leaving by any person on his own or on another's land of a fire that shall spread and damage or destroy property of any kind not his own, etc.	Liability in a civil suit for all damages caused by the fire; also for all costs and expenses incurred by the State of Montana, or by any forestry association, or by any person in extinguishing or preventing the spread of such fire.

OFFENSE	PENALTY
SECTION 11500. Carelessly setting fire to any timber, woodland, or grass except for useful and necessary purposes, or at any time the making of a camp fire or the lighting of a fire for any purposes whatever by any person without taking sufficient steps to keep the same from spreading from the immediate locality where it is used, or failure to extinguish such fire before leaving it.	Imprisonment in the county jail for not more than 1 year, or a fine of not more than \$2,000 or both.
SECTION 11501. The careless or negligent setting on fire or causing to be set on fire of any woods, timber, prairie, or other combustible material by any person, whether on his own land or not, by means of which the property of another shall be endangered, or the negligent suffering of any fire upon his own lands or lands occupied by him to extend beyond such limits.	A fine of not less than \$100 nor more than \$500, or imprisonment in the county jail for not less than 1 month nor more than 6 months, or both.
SECTION 11502. Wantonly or designedly setting fire to any timber, woodland, or grass or maliciously failing to extinguish the same before leaving it after making it for a necessary purpose.	A fine of not more than \$5,000, or imprisonment in the State prison for not more than 5 years, or both.

Montana Laws of 1927, chapter 95

OFFENSE	PENALTY
SECTION 4. Burning forest material of any kind from May 1 to September 30, inclusive, without first obtaining written permission from the State forester or his representative, or a fire warden, or a forest ranger.	A fine of not less than \$25 nor more than \$500, or imprisonment in the county jail for not less than 10 nor more than 90 days, or both.
Setting fire to forest material at a time or during a period not specified in the written permit to burn.	The same.
Setting fire to forest material without having taken reasonable precautions and without having equipment and tools present, to control the fire.	The same.
Failure of the person setting fire to forest material to watch the fire until it is out.	The same.

NOTE.—“Forest material” shall be held to mean trees, poles, logs, pilings, slabs, ties, stumps, cordwood, bark sticks, slashings, wood, brush, cuttings, refuse, weeds, grass, twigs, leaves, and litter within or adjacent to standing timber, cut-over land, or burned-over forest land, and every kind of forest products lying or piled upon the land.

OFFENSE

PENALTY

SECTION 5. Failing to pile and burn timber, brush, slash, or debris cut during the process of clearing a right of way for any railroad, public highway, public trail, private highway, private road, trail, ditch, dike, pipe or wire line, or any other transmission or transportation utility right of way, except temporary roads, chutes, or trails used in actual logging operations.

A fine of not less than \$100 nor more than \$1,000.

NOTE.—By its provisions section 5 is made applicable to employees of the State, county, highway district, or road district. And in addition it provides that the State forester or the fire warden may prevent by writ of injunction the continuance of the clearing until the cuttings, etc., are disposed of, and he may compel the disposal of the same by a writ of mandate issued by a court of competent jurisdiction.

The administrative features of chapter 95 are covered by sections 6 and 7 of that act. These are published in the volume known as "Montana Session Laws, 1927," and in the pamphlet designated "Laws of Montana Relating to Forestry" issued by the State forester.

Any uncontrolled or spreading fire in forest material from May 1 to September 30, inclusive, is designated a public nuisance by section 2 of chapter 95. If the owner of the land on which such fire exists refuses, fails, or neglects to take reasonable steps to control or extinguish it, the State forester, the United States, or forest protective association recognized by the State forester, may summarily abate such nuisance and recover the costs of suppression from such owner.

MONTANA FISH AND GAME TRESPASS LAWS

NOTE.—Because of the frequent modifications and amendments of the fish and game laws of Montana by the legislative assembly of the State, these laws have not been digested in this publication. For a complete list of such laws forest officers are referred to the game-law pamphlets issued periodically by the State fish and game warden.

DIGEST OF MONTANA PROPERTY TRESPASS LAWS

Montana Revised Code of 1921

OFFENSE	PENALTY
SECTION 11345. Maliciously burning in the nighttime an inhabited building in which there is at the time some human being.	Imprisonment in the State prison for not less than 5 years.
Maliciously burning, with intent to destroy, any building, house, edifice, structure, vessel, railroad car, tent, camp wagon, sheep wagon, or other erection capable of affording shelter.	Imprisonment in the State prison for not less than 1 year nor more than 10 years.
SECTION 11348. Entering in the nighttime any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, railroad car, with intent to commit grand or petit larceny or any felony. Such action constitutes burglary in the first degree.	Imprisonment in the State prison for not less than 1 year nor more than 15 years.
Entering in the daytime any structures defined in the preceding section with intent to commit grand or petit larceny or a felony. Such action constitutes burglary in the second degree.	Imprisonment in the State prison for not more than 5 years.
SECTION 11352. Committing burglary with the use of nitroglycerin, dynamite, gunpowder, or other high explosive.	Imprisonment in the State prison for not less than 15 years nor more than 40 years.

OFFENSE

SECTION 11482. The tearing down, breaking, or injuring of any fence or other enclosure for the purpose of entering on the land of another without the consent of the owner or the occupant.

SECTIONS 11368, 11369, 11373, 11374, 11408, 11410. Taking any property with intent to defraud the true owner of his property or of the use and benefit of the same, or obtaining possession of the property, by the aid of any fraudulent or false representation, or making any check, order, or draft for the payment of money, upon any bank, if it is known at the time of such making or drawing that sufficient funds are not available. Such action constitutes larceny. If the value of the thing taken or obtained exceeds in value the sum of \$50, or if the property is taken from the person of another, the crime is grand larceny. If the value of the thing taken or obtained is less than \$50, the crime is petit larceny.

PENALTY

A fine of not less than \$10 nor more than \$500, or imprisonment in the county jail not exceeding 6 months, or both.

For grand larceny, imprisonment in the State prison for not less than 1 year nor more than 14 years. For petit larceny, a fine of not more than \$500, or imprisonment in the county jail for not more than 6 months or both.

OFFENSE	PENALTY
SECTION 11476. The willful and malicious burning by any person of any bridge the value of which exceeds \$50 or any stack of grain or hay, or any growing or standing grain, grass, tree, or fence, belonging to another.	Imprisonment in the State prison for not less than 1 year, nor more than 10 years.
SECTION 11481. Maliciously or willfully cutting down, destroying, or injuring any kind of wood or timber growing or standing on the land of another, or carrying away from such lands any timber or wood, or maliciously injuring or severing from such land any property.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
Destroying, defacing, or injuring any door, window, or other portion of a vacant residence or other building or maliciously opening any closed door or window of such building without the consent of the owner, tenant, etc.	The same.
SECTION 11487. The willful and malicious cutting, breaking, injuring, or destroying of any dam, bridge, canal, flume, aqueduct, levee, embankment, reservoir, or other structures erected to create hydraulic power or for mining, manufacturing, agricultural, or municipal purposes.	A fine of not less than \$100, or imprisonment in the county jail for not more than 2 years, or both.

OFFENSE	PENALTY
SECTION 11488. The malicious cutting, sinking, breaking, injuring, or setting adrift of any boat or vessel the property of another.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11489. Unlawfully obstructing the navigation of any navigable stream.	The same.
SECTION 11491. Defacing, destroying, or tearing down any copy of or extract from any law of the United States or of the State of Montana, or any proclamation, advertisement, or notification set up at any place in the State of Montana by authority of any law of the United States or of Montana.	A fine of not more than \$100 or imprisonment in the county jail for not more than 3 months, or both.
SECTION 11499. Willfully breaking, digging up, obstructing, or injuring any pipe or main conducting water or gas or any works erected for supplying buildings with water or gas.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11512. Willfully administering poison to any animal, the property of another, or exposing poison with intent to have it taken by an animal, the property of another.	Imprisonment in the State prison for not more than 3 years or in the county jail for not more than 1 year, or a fine of not more than \$500, or both.
SECTION 11528. Willfully leaving open the gate leading in or out of any inclosed premises.	A fine of not more than \$25.

OFFENSE	PENALTY
SECTION 11233. The maintaining of anything injurious to health or indecent or offensive to the senses, or anything that is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life and property by a community or neighborhood or by any considerable number of persons, etc., which constitutes a public nuisance.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11235. Putting dead animals or the offal of a slaughter pen or butcher shop in any river, creek, pond, reservoir, or public highway, or on the borders of any stream, lake, etc., from which the water supply of a city or town is taken.	A fine of not more than \$1,000, or imprisonment in the county jail for not more than 1 year, or both.
SECTION 11210. Defacing marks upon logs, lumber, or wood, or placing false marks thereon, with intent to prevent the owner from identifying or discovering his property.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11194. Willfully poisoning food, medicine, or water, or drink, or any well or spring, or reservoir of water.	Imprisonment in the State prison for not less than 1 year nor more than 10 years.

OFFENSE	PENALTY
SECTION 11478. It is unlawful for any person, without the consent of the owner, to take, use, operate, or remove, or cause to be taken, used, operated, or removed, any automobile or motor vehicle.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or imprisonment in the State prison for not more than 5 years.
SECTION 11474. It is unlawful for any person to injure or destroy maliciously, any real or personal property not his own, of the value of \$50 or over, or to injure or destroy maliciously, any real or personal property not his own, of a value less than \$50.	Imprisonment in the State prison for not less than one nor more than 5 years. If the value of the property is less than \$50 the punishment provided is a fine of not more than \$500 or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11485. Willfully and maliciously cutting, tearing down, removing, injuring or destroying any fence or other inclosure of lands by any person not the owner thereof.	A fine of not less than \$25 nor more than \$200, or imprisonment for not less than 30 days nor more than 6 months, or both.

OFFENSE

PENALTY

SECTION 11466, as amended by chapter 66, session laws of 1929. Willfully or maliciously displacing, removing, injuring, destroying or obstructing any telegraph, telephone, or electric light line, wire, cable, pole, or conduit belonging to another, or maliciously and willfully cutting, breaking, tapping, or connecting with any telegraph or telephone line, wire, cable, or instrument, or obstructing or delaying the transmission of any telegraph or telephone message, etc.

SECTION 1, chapter 74, session laws of 1929. Removing, destroying, or defacing any barrier or sign erected by proper authority, indicating that a road, bridge, or highway is closed to traffic or to pass over any road or bridge that is so closed to traffic, or extinguishing, removing, or destroying any lantern, torch, or reflector from any barricade or warning sign so erected.

SECTION 11388. Buying or receiving for his own gain any personal property knowing the same to have been stolen.

SECTION 11381. Bringing stolen property into the State, knowing the same to have been stolen.

A fine of not less than \$300 nor more than \$1,000, or imprisonment in the county jail for not more than 1 year, or both.

A fine of not less than \$10 nor more than \$100.

Imprisonment in the county jail for not more than 6 months, or in the State prison for not more than 5 years.

Punishment is the same as for larceny.

OFFENSE	PENALTY
SECTION 10742. Malicious damage, injury, or destruction of real or personal property of any employer or owner at the instigation of employees or other persons, or advocating what is known as sabotage or criminal syndicalism.	A fine of not less than \$200 nor more than \$1,000, or imprisonment in the State prison for not less than 1 nor more than 5 years, or both.
SECTION 11505. Maliciously driving any spike, nail, or other metallic substance, or stone or rock, into any saw log intended for manufacture into lumber, or other timber products.	A fine of not less than \$100 nor more than \$1,000, or imprisonment in the State prison for not less than 1 nor more than 5 years, or both.
SECTION 11483. Maliciously injuring or destroying any standing crop, grain, cultivated fruits, or vegetables.	A fine of not more than \$500, or imprisonment for not more than 6 months, or both.
SECTION 11468. Willfully and maliciously interfering with, injuring, breaking, displacing, destroying, obstructing, or cutting any railroad track, station, bridge, roadbed, water tank, coal dock, engine, car, or any fixture attached to any operated railway.	Imprisonment in the State prison for not less than 5 years or for the life of the offender.
SECTION 11473. Maliciously taking down, removing, injuring, interfering with, or obstructing any line upon which electricity is transmitted for heat, light, or power.	A fine of not more than \$500, or imprisonment in the county jail for not more than 1 year.

DIGEST OF MONTANA GRAZING TRESPASS AND LIVESTOCK LAWS

Montana Revised Code of 1921

OFFENSE

PENALTY

SECTION 3317. The removal from Montana of any horse, mule, mare, colt, or foal without inspection by a stock inspector or the sheriff of the county.

A fine of not more than \$300 nor less than \$50, or imprisonment in the county jail in default of payment of fine until such fine is discharged at the rate provided by law.

SECTION 3324. The removal by any person, association, or corporation of any stock or neat cattle from one county to another within the State of Montana, by railroad or otherwise, before they have been inspected by a stock inspector for brands.

A fine of not less than \$50 nor more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

NOTE.—This act does not apply to stock driven by the owner from one county to another for the purpose of pasturing, feeding, changing range, etc.

The shipment by any railroad company of any stock or neat cattle for which it has not received a certificate of inspection.

A fine of not less than \$50 nor more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

SECTION 3288. Violation of the rules of the Montana Stock Sanitary Board.

A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

SECTION 3269. The selling for human food of any part of an animal slaughtered under insanitary conditions.

The same.

OFFENSE	PENALTY
SECTION 3287. An agent in charge of or an owner's allowing of a domestic animal to run at large on the public range or on a public highway while it is suffering from or after it has been exposed to any infectious, contagious, or communicable disease.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 11211. Maliciously marking or branding or altering any brand, with intent to steal any kind of stock or prevent its identification by the owner.	A fine of not more than \$500, or imprisonment in the State prison for not more than 5 years, or both.
SECTION 3306. Violation of the law of 1921 providing for the regulation and artificial marking or branding of livestock and the recording of marks and brands.	A fine of not more than \$1,000, or imprisonment in the county jail for not more than 1 year, or both.
SECTION 11263. Knowingly selling or offering for sale any animal having glanders, farcy, or any contagious disease.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months or both.
SECTION 11543. Driving any horses, cattle, mules, or sheep through Montana which are brought from another State without being properly branded.	A fine of not less than \$50 nor more than \$300.
SECTION 11549. Driving any cattle, horses, mules or sheep from their customary range without the consent of the owner.	A fine of not more than \$100, or imprisonment in the county jail for not more than 90 days, or both.

OFFENSE

PENALTY

SECTIONS 3403-3405. The turning of any bull other than a purebred one of recognized beef type upon or allowing it to run at large on the public highways, the open range, or the national forest reserves by any person, firm, or corporation, or the turning upon or allowing any bull to run at large upon such public highways or open ranges or national forest reserves between January 1 and July 1 of each and every year, or in case such person, etc., permits female breeding cattle to run at large, permitting any purebred bull less than 15 months or more than 8 years of age to run at large.

A fine of not less than \$25 nor more than \$250.

NOTE.—“Open range” is defined as all lands not enclosed by a legal fence, and it includes highways used by the public whether or not the same have been formally dedicated to public use.

SECTION 3340. The taking by any person, into possession without the owner's consent, for his own use and benefit, of any estray.

A fine of not less than \$25 nor more than \$100, or imprisonment in the county jail for not exceeding 60 days, or both.

NOTE.—An “estrays” is defined as any mare, gelding, stallion, colt, foal, mule, jack, jennet, cow, ox, steer, bull, stag, heifer, or calf, running at large away from its accustomed range, or any of the animals defined, the owner of which cannot be found after diligent search.

Chapter 63, Montana Laws of 1925

OFFENSE

The permitting by an owner or person having the management or control of any stallion, ridgeling, unaltered male mule, or jackass, over the age of 1 year, or the suffering of such animal to run at large on the open range. Any animal of the types specified running at large is a public nuisance.

PENALTY

Round-up and corralling of such animals at the expense of the owner. If the animal or animals cannot be captured, taken up, or corralled after reasonable effort, it or they may be killed unless the owner within 10 days after notice to him removes and restricts the animals from running at large. (For the full text of the law, see the Session Laws of 1925.)

Chapter 31, Montana Laws of 1925

The receipt by any person within the State of Montana of any livestock, poultry, dogs, or other animals from points at which disease is epidemic outside the said State, after the Governor of Montana by proclamation shall have prohibited the bringing in of such animals or poultry, or the receipt of any other articles or commodities designated in such proclamation.

A fine of not less than \$300 nor more than \$500, or imprisonment for not less than 60 days nor more than 8 months, or both.

Chapter 45, Montana Laws of 1925

OFFENSE	PENALTY
The permitting by the owner or person entitled to the possession of any horses, mules, cattle, sheep, or goats of their running at large within any herd district. Each day that any of the animals run at large constitutes a separate offense.	A fine of not less than \$1 nor more than \$5. If the animal found running at large in the herd district be a bull over 1 year of age, the penalty provided is a fine of not less than \$10 nor more than \$50.

Chapter 29, Montana Laws of 1927

Abandoning horses to run at large on the public domain or open range. Abandoned horses are declared to be a public nuisance.	The destruction or disposal of such animals under the direction of the proper board of county commissioners if the reputed owner does not redeem them and there are no bidders for them at the round-up sale.
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NOTE.—Forest officers interested in having a round-up made should proceed under the advice and instruction of the regional forester. The law is complex and exacting in its terms, and great care must be taken to comply with its provisions.

An "abandoned horse" is defined in this statute as any horse, mare, gelding, filly, jack, mule, or other animal of the genus *Equus* of the age of 1 year or over which is unbranded, or if branded which has escaped assessment for taxes for the year next preceding the date of its impoundment. Fillies running with dams are included. An animal not bearing a decipherable brand which is recorded in the office of the recorder of marks and brands shall be deemed unbranded.

Montana Revised Code of 1921

Sections 3333-3339 of the Montana Revised Code of 1921 define the legal procedure for the disposal and sale of estray animals under the direction of the State livestock commission and the stock inspector. This procedure is complicated and must be strictly complied with. National-forest employees should not take part in the round-up of estray animals without specific instructions from the regional forester.

Sections 3378 and 3379 provide a civil remedy for impounding and disposing of trespassing livestock and for the recovery of the impounding expenses and damages for the trespass. Like other Montana livestock laws, these require strict adherence to the prescribed method of rounding up the trespassing stock.

OFFENSE	PENALTY
SECTION 11533. Removing scabby sheep or sheep that have been scabby within 1 year, from one point to another in any county, or from one county to another without the written certificate of the sheep inspector.	A fine of not more than \$1,000.
SECTION 11534. Bringing into Montana any sheep infected with scab or other infectious disease, or any horses, mules, asses, or cattle infected with any contagious disease.	A fine of not more than \$500.
SECTION 11556. Permitting any horse, mule, ass, sheep, hog, or cattle affected with a contagious disease, to run on any range, etc.	A fine of not more than \$500, or imprisonment for not more than 6 months, or both.
SECTION 11515. The willful or malicious maiming or killing of any livestock by any person not the owner thereof, or willfully or maliciously placing poison upon a public range where it is likely to produce the death of any livestock.	Imprisonment in the State prison for not less than one nor more than 10 years.
SECTION 11508. Overdriving, overloading, torturing, injuring, maiming, cruelly beating, mutilating, or unlawfully killing any animal, or depriving any animal of necessary food or drink.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

OFFENSE

PENALTY

SECTION 11557. The landowner or his agent, permitting any barbed or other wire on his land to remain down, or broken in such condition as to be dangerous to livestock, for a period of 40 days after service of notice on him to repair such wire.

A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

NOTE.—Sections 3380 to 3382 as amended by chapter 78 Montana Laws of 1927 provide in substance as follows: No person owning or possessing unfenced agricultural or grazing land, or patented mining claims lying within the national-forest reserves of this State, or on the public range lying adjoining to any national-forest reserve, the boundaries of which are not marked by substantial monuments that can be readily seen so that the boundaries thereof can be readily traced, shall have any claim, or cause of action, or right of action, against the owner of sheep, cattle, or other livestock in charge of a herder, for trespass on such lands.

This rule does not apply if the livestock be driven onto the lands by any person who has actual knowledge of the boundary lines of such lands.

Only nominal damages can be allowed the owner of the land trespassed upon, unless the landowner or his agent demand a certain sum from the trespasser for the damages sustained within 6 months after the date of the trespass.

DIGEST OF MISCELLANEOUS MONTANA TRESPASS LAWS

Montana Revised Code of 1921

Grouped under this head is the substance of several Montana trespass laws applicable within as well as without national forests. They are dissimilar in many respects to other trespass laws; therefore it is deemed appropriate to set out a digest of them apart from the others.

OFFENSE

PENALTY

SECTION 1729. The failure of the person responsible to remove immediately upon the request of the proper road supervisor any fence, building, etc., encroaching on a public highway.

Forfeiture of \$10 for each day that the encroachment remains unmoved after due notice.

OFFENSE	PENALTY
SECTION 10894. The destruction by any person of any book, paper, instrument, writing, or other matter or thing which he knows is about to be required as evidence at any trial or investigation required by law or the concealing of the same.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months or both.
SECTION 10895. Preventing or dissuading a witness from appearing at a trial authorized by law.	The same.
SECTION 10916. The refusal of any peace officer to arrest a person properly charged with the commission of a crime.	A fine of not more than \$5,000 or imprisonment in the county jail for not more than 5 years.
SECTION 10898. The conspiring of two or more persons to commit a crime of any kind. Such action constitutes criminal conspiracy.	A fine of not more than \$1,000, or imprisonment in the county jail for not more than 1 year, or both.
SECTION 11464. Maliciously digging, removing, displacing, breaking, injuring or destroying any public highway, or private way laid out by authority of law.	A fine of not more than \$1,000, or imprisonment in the county jail for not more than 1 year, or imprisonment in the State prison for not more than 5 years, or both.

NOTE.—A “highway” is defined by law as any highway, road, lane, street, alley, court, place, or bridge laid out or erected by the public or traveled or used by the public, or laid out or erected and dedicated by others to public use, or made a public highway upon petition.

OFFENSE

PENALTY

SECTION 2649. Polluting in any manner any water which is used as a source of supply for any city, town, Federal, State, or county institution, or rendering it injurious to health or violating the rules of the State board of health.

A fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.

SECTION 11303. Carrying concealed weapons outside of the limits of any city or town.

A fine of not less than \$25 nor more than \$300, or imprisonment in the county jail for not less than 6 months nor more than 1 year, or both.

NOTE.—This law does not apply to peace officers, game wardens, forest officers, etc.

Chapter 166, session laws of 1929. Driving, operating, or running any automobile, truck, motorcycle, or any other motor vehicle upon any highway or street or public thoroughfare, while in an intoxicated condition or under the influence of intoxicating liquor or any drug or narcotic.

A fine of not less than \$50 nor more than \$300, or imprisonment in the county jail for not less than 30 days nor more than 6 months.

For concealing or attempting to conceal his identity by flight, or destroying or concealing the motor-vehicle license tag, by the driver of a motor vehicle after he shall have injured any person or property on the highway through collision with another motor vehicle or otherwise, or failing to report such accident, etc.

Imprisonment in the State prison for not less than 5 nor more than 20 years.

OFFENSE	PENALTY
SECTION 1739. Dumping or leaving any garbage or dead animal upon any public highway, road, or alley, or within 200 yards of such public highway, road, or alley.	A fine of not more than \$25, or imprisonment for not more than 30 days, or both.
SECTION 1754. Violating any of the public highway speed and traffic provisions of sections 1742, 1743, and 1753, Revised Codes of 1921.	A fine of not more than \$100.
SECTION 10926. Exercising without legal authority the functions of a deputy sheriff, marshal, policeman, constable, or peace officer.	A fine of not less than \$100 nor more than \$500, or imprisonment in the State prison for not less than 1 nor more than 3 years.
SECTION 10928. Willfully resisting, delaying, or obstructing any public officer in the discharge of any duty of his office.	A fine of not more than \$5,000, or imprisonment in the county jail for not more than 5 years.
SECTION 1754. Violation of any of the rules or laws of the road relating to public travel other than those set up by city and town ordinances.	A fine of not more than \$100 for the first offense.
SECTION 11482. Hunting without the consent of the owner, upon enclosed land on which there is posted in a conspicuous place a "No Hunting" or "No Trespassing" sign.	A fine of not less than \$10 nor more than \$500, or imprisonment in the county jail for not more than 6 months, or both.

Part III.—DIGEST OF IDAHO TRESPASS LAWS

DIGEST OF IDAHO FIRE TRESPASS AND BRUSH DISPOSAL LAWS

Idaho Code Annotated—1932

OFFENSE	PENALTY
SECTION 37-108. Failure on the part of anyone engaged in the cutting of timber, ties, logs, posts, poles, cordwood, pulpwood, or other forest product or potential forest product to remove the fire hazard created thereby by piling and burning the slash in accordance with the directions of the State forester.	A fine of not less than \$50 nor more than \$1,000, as provided by chapter 69, session laws 1929.
SECTION 37-109. Failure to pile and burn the slash which results from the cutting of timber and of other forest products on land adjoining the right-of-way of any railroad using coal- or wood-burning engines, or adjoining highways, county roads, main roads of travel, buildings, structures, lumber piles, donkey engines in operation, construction camps, logging camps, sawmill sites, rollways, or tourist camp grounds	A fine of not less than \$25 nor more than \$500.

OFFENSE	PENALTY
SECTION 37-111. Failure, in disposing of slash by fire, to exercise care to prevent the fire from spreading to other forest land, the creating of further fire hazard by damaging the timber growth left standing, failure to have on hand sufficient men, tools, supplies, and equipment to control the fire, or failure to comply with the terms of a permit to burn slash during the closed season.	A fine of not less than \$50 nor more than \$1,000.
SECTION 37-112. Failure or neglect on the part of any warden, or deputy warden, or any person lawfully commanded to assist in the enforcement of this act to do so.	A fine of not less than \$10 nor more than \$100, or imprisonment in the county jail not exceeding 30 days, or both.
The building of a camp fire in the closed season on forest land without clearing the ground immediately around it of material which will carry fire.	The same.
Leaving a camp fire unattended and burning on forest land during the closed season.	A fine of not less than \$10 or more than \$100, or imprisonment in the county jail not exceeding 30 days, or both.
Permitting a camp fire to spread on forest land or building a camp fire against a stump, a log, a live or dead tree, or a standing snag during a closed season.	The same.

OFFENSE	PENALTY
The carrying of a naked torch, firebrand, or exposed light or the use of other than incombustible wads for firearms in or near to forest land.	A fine of not less than \$10 or more than \$100, or imprisonment in the county jail not exceeding 30 days, or both.
The kindling of fire during the closed season in or dangerously near to any forest material.	The same.
The failure to extinguish immediately any fire set in forest material during the closed season by the throwing of any lighted cigar, cigarette, burning tobacco, lighted match; by the use of firearms, by the setting off of firecrackers or fireworks, or by any other means.	The same.
SECTION 37-113. Willfully or maliciously setting fire to any woods, timber, brush, or any combustible material whatever, with intent to injure the property of another.	A fine of not more than \$5,000, or imprisonment in the State prison for not more than 5 years, or both.
SECTION 37-114. Throwing on forest land during the closed season any lighted tobacco, cigar, cigarette, match, firecracker, fireworks, or other lighted material.	A fine of not less than \$10 nor more than \$100.
Failure on the part of anyone operating a public conveyance through forest land to post a copy of section 37-114 in a conspicuous place in a compartment of such conveyance.	The same.

OFFENSE	PENALTY
<p>SECTION 37-115. Failure on the part of anyone to pile and burn, as the work of clearing progresses, all refuse timber, brush, slash, or débris cut upon or resulting from the clearing of any right of way for any railroad, public highway, public trail, private highway, private road, logging road, trail, ditch, dike, pipe line, wire line, transmission utility, or transportation utility.</p>	<p>A fine of not less than \$100 nor more than \$1,000.</p>
<p>SECTION 37-116. From June 1 to September 30, inclusive (the closed season), setting or causing to be set, without permit from the State forester or district fire warden, any fire in a slashing area, in any stump or in any stumps, in any log or logs, in any down or standing timber, on forest lands, dangerously near forest lands, in any field in any forest-protection district, when any dangerous wind is blowing, or when there are not at hand sufficient men, tools, supplies, and fire-fighting equipment to control the fire; or violating any of the terms of a permit to burn; or obtaining a permit by misrepresentation.</p>	<p>A fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or both.</p>

OFFENSE

PENALTY

SECTION 37-117. The failure of a common-carrier railroad during the closed season to keep its right of way, station grounds, and operating property, contiguous to forest lands, clear and free of *all* combustible and inflammable material, or the leaving or depositing of fire or live coals or hot ashes in the immediate vicinity of forest lands.

A fine of not less than \$25 nor more than \$250 for each offense.

(The State forester may suspend the requirements of this section upon approval by the State cooperative board of forestry.)

SECTION 37-133. "Forest land" is defined by the act as any land which has upon it sufficient brush, inflammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or the removal of forest products, to constitute a fire menace to life or property.

SECTION 37-118. The failure, during the closed season, of any common-carrier railroad trainman who shall see any fire on the right of way, station grounds, or operating property of the railroad contiguous to or adjacent to forest land, in the course of his employment, to note the size, location, and direction of spread of such fire and to report it immediately to the conductor of the train.

A fine of not less than \$10 nor more than \$50.

The failure of a common-carrier railroad section man, gang man, or track walker to report immediately to his superior or foreman any fire seen by him on contiguous or adjacent forest land.

The same.

OFFENSE	PENALTY
Refusal or neglect on the part of the train conductor of a common carrier railroad to notify the telegraph operator at the next regular train-stop point of the facts in his possession as to the location, size, and direction of spread of a fire on forest lands.	A fine of not less than \$10 nor more than \$50.
Failure on the part of a telegraph operator to report the facts of a fire submitted to him by a train conductor to the fire warden of the proper protection district by telegraph or telephone.	The same.
Neglect on the part of any section foreman of a common carrier during the closed season to take reasonable and prudent measures to control and extinguish a fire on the railroad right of way or on station grounds or operating property of the railroad in his section, or his failure to report such fire to the nearest telegraph or telephone station.	The same.
Refusal or neglect on the part of a telephone or telegraph operator to telephone or telegraph the facts as to a fire received from a train conductor or from a section foreman to the fire warden of the proper protective district or to the deputy fire warden.	The same.

OFFENSE	PENALTY
Failure on the part of a section foreman of a common carrier railroad during the closed season to report by telegraph or telephone to the warden or deputy warden of the proper fire district each fire observed by him on or near forest land.	A fine of not less than \$10 nor more than \$50.
SECTION 37-119. Failure on the part of the operator of any common carrier railroad within a protective district to keep his employees fully instructed as to their duties relative to reporting, controlling, and preventing forest fires.	A fine of not less than \$25 nor more than \$100.
SECTION 37-122. The burning of mill or plant refuse in the open by the operator of any sawmill, planing mill, shingle mill, or woodworking plant, or wood manufacturing plant, operating in or near forest land unless a fireproof wall not less than 12 feet in height encloses the area on which the refuse, etc., is burned.	The same.

NOTE.—The State forester, with the consent of the State cooperative board of forestry, may suspend the restrictions of section 37-122.

OFFENSE	PENALTY
<p>SECTION 37-124. The use of or operation of any locomotive, logging engine, portable engine, traction engine, stationary engine, or boiler which is not provided with an adequate and efficient spark arrester and some device to prevent the escape of fire and live coals from ash pans and fire boxes on or near forest land by any person, employee, contractor, subcontractor, or piece-worker during the closed season.</p>	<p>A fine of \$25 for each day that each engine is operated without spark arrester and device.</p>
<p>NOTE.—This section is not applicable to engines in which oil is used for fuel.</p>	
<p>SECTION 37-125. Setting a fire in a forest-protection district without taking adequate precautions to prevent its spread.</p>	<p>The expense of the State forester's abating the nuisance plus 10 percent of the total cost of abatement. If the debt is not paid promptly, it shall be collected by foreclosure of the lien which has attached to the offender's property.</p>
<p>SECTION 37-127. Willfully or maliciously doing away with, hiding, losing, injuring, or destroying the tools, equipment or supplies of the forest protective agencies provided by this act, or the tools, equipment, or supplies used under agreement with the State forester.</p>	<p>A fine of not less than \$25, or imprisonment in the county jail for not less than 10 nor more than 30 days, or both.</p>

OFFENSE	PENALTY
SECTION 37-128. Maliciously or willfully destroying, defacing, disfiguring, or needlessly removing any sign, poster, warning, or notice posted under the provisions of this act or by any protective agency cooperating with the State.	A fine of not less than \$15 nor more than \$100, or imprisonment in the county jail for not less than 10 days nor more than 3 months, or both.
SECTION 37-129. Failure, refusal, or neglect on the part of the prosecuting attorney of each county to prosecute with due diligence and energy offenders against the provisions of Sections 37-108 to 37-128, inclusive, upon the submission of evidence to him showing with reasonable certainty a violation and the offender.	A fine of not less than \$100 nor more than \$1,000.
SECTION 17-2722. Willfully or carelessly setting on fire or causing to be set on fire any timberlands, and thereby destroying the timber.	A fine of not more than \$300, or imprisonment in the county jail for not more than 6 months, or both.
Willfully setting on fire or causing to be set on fire prairie lands, and thereby destroying the grass or grain on such lands.	The same.
Building a camp fire in any woods or on any prairie and leaving the same without totally extinguishing it.	The same.

OFFENSE

PENALTY

A railroad company's willfully and carelessly permitting fire to spread from its right of way to adjoining lands.

SECTION 17-2723. Throwing any lighted cigarette, cigar, match, ashes, or other flaming or glowing substance or any substance or thing which may cause a fire, from any vehicle, or throwing, depositing, or leaving any lighted cigarette, cigar, match, ashes, or other flaming or glowing substance or any substance or thing which may cause a fire in any place where the same may directly or indirectly cause a fire resulting in damage to forage on lands of the United States or the State of Idaho or to the property of any person.

A fine of not more than \$300, or imprisonment in the county jail for not more than 6 months, or both.

The same

IDAHO FISH AND GAME TRESPASS LAWS

Because of biennial changes in the fish and game laws of Idaho, it has been deemed inadvisable to publish here a digest of them. For a full list of the offenses against these laws, see the pamphlet issued periodically by the Fish and Game Department of Idaho.

Questions of administrative policy and flagrant and nonflagrant acts are discussed in circular letters of the regional forester and in the trespass section of the National Forest Manual.

National-forest employees assigned to investigate fish and game law violations should be careful to distinguish an act which constitutes an offense under Idaho law from one which is a violation of a national forest

regulation. In some cases the wrongful act is a violation of the Idaho law and at the same time an infringement of the regulation defined. However, an act which is an offense against the law of Idaho is not necessarily a crime under the regulation. Nor is a violation of a national-forest game regulation, as a rule, an offense under the law of the State.

DIGEST OF IDAHO PROPERTY TRESPASS LAWS

Idaho Code Annotated—1932

OFFENSE	PENALTY
SECTION 17-3504. Feloniously taking property the value of which exceeds \$60, or taking property from the person of another, or taking a horse, mare, gelding, cow, steer, bull, calf, mule, jack, goat, jenny, sheep, hog, or fox held in captivity for breeding or fur production purposes. Such action constitutes grand larceny.	Imprisonment in the State prison for not less than 1 year nor more than 14 years.
SECTION 17-3507. Taking property the value of which does not exceed \$60. Such action constitutes petit larceny.	A fine of not more than \$300, or imprisonment for not more than 6 months, or both.
SECTION 17-3512. Preventing the owner of personal property from gaining possession of it, or buying or receiving any personal property known to have been stolen.	A fine of not more than \$1,000, or imprisonment in the county jail for not more than 6 months or imprisonment in the State prison for not more than 5 years, or both.

OFFENSE	PENALTY
SECTION 17-3902. Knowingly and designedly by false or fraudulent representation or pretenses defrauding any other person of money or property or obtaining credit by false representations or pretenses.	The penalty is the same as for larceny.
SECTION 17-3513. Bringing into the State property stolen in another State or received therein with the knowledge that it had been stolen.	The same.
SECTION 17-3515. Taking willfully and without authority, with intent to deprive the owner thereof, any saw logs, timber, lumber, railroad ties, poles, rails, posts, or cordwood which may have floated down a river or creek or are on any river, creek, or adjoining land or removing or attempting to remove such logs, etc., or otherwise destroying or injuring them.	A fine of not more than \$300, or imprisonment for not more than 6 months, or both.
SECTION 17-3516. Defacing marks, remarking, mutilating, or changing the marks on logs, lumber, or wood, with intent to prevent their identity from being discovered by their owner.	A fine of not more than \$500, or imprisonment not exceeding 6 months, or both.
SECTION 17-4104. Maliciously placing any obstruction on the rail or track of any railroad.	Imprisonment in the county jail for not less than 6 months or in the State prison for not more than 5 years.

OFFENSE

PENALTY

SECTION 17-4107. Maliciously digging up, removing, displacing, breaking, injuring, or destroying any public highway or any private way lawfully laid out or any bridge on any such way.

Imprisonment in the county jail for not more than 1 year or in the State prison for not more than 5 years.

SECTION 17-4110. Willfully or negligently depositing debris of any kind on any highway, easement, or street used by the public for travel, which is likely to injure any stock, or person, etc.

A fine of not more than \$25 or imprisonment for not more than 10 days.

SECTION 17-4114. Maliciously taking down, removing, obstructing, or injuring any telephone or telegraph line or any part thereof.

A fine of not less than \$25 nor more than \$300, or imprisonment for not less than 30 days nor more than 6 months, or both.

SECTION 17-4111. Obstructing, injuring, or damaging in any manner any public road, street, or highway.

The same.

SECTIONS 39-101 to 39-104. A "highway" is a road, street, alley, or bridge laid out or erected by the public, or, if laid out by others, dedicated or abandoned to the public. A road not worked or used for a period of 5 years ceases to be a highway for any purpose.

SECTION 17-4115. Willfully burning, cutting down, or materially injuring any telephone, telegraph, or electric light pole or shooting at or injuring any insulator or wire, etc.

A fine of not less than \$25 nor more than \$100.

OFFENSE	PENALTY
SECTION 17-4301. The malicious injury or destruction by any person of any real or personal property not his own.	A fine of not more than \$300, or imprisonment for not more than 6 months, or both.
SECTION 17-4201. Willfully administering any poison to any animal, the property of another, or exposing poison with intent that it shall be swallowed by such animal.	A fine of not more than \$500 and imprisonment in the county jail for not more than 1 year or in the State prison for not more than 3 years.
SECTION 17-4303. Willfully and maliciously burning any bridge exceeding \$50 in value, or any building, snowshed, or vessel not the subject of arson, or any stack of grain or hay, or standing or growing grain, or grass, or fence.	Imprisonment in the State prison for not less than 1 year nor more than 10 years.
SECTION 17-4308. Injuring or destroying any standing crop, grain, cultivated fruits, or vegetables, the property of another.	A fine of not more than \$300, or imprisonment for not more than 6 months, or both.
SECTION 17-4313. Willfully and maliciously cutting, breaking, injuring, or destroying any dam, bridge, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim land, or to conduct water for mining, agricultural, manufacturing, or reclamation purposes, etc.	A fine of not more than \$1,000, or imprisonment for not more than 2 years, or both.

OFFENSE

PENALTY

SECTION 17-4314. Willfully and maliciously burning, marking, branding, injuring, defacing, or destroying any piling, telegraph pole, telephone pole, electric transmission line pole, fence post, pile or raft of wood, plank, boards, or lumber, or cutting loose and sinking or setting adrift any raft or vessel.

SECTION 17-4315. Intentionally tearing down, defacing, obliterating, or destroying any copy or extract of any State or Federal law, proclamation, notice, or advertisement, set in place by authority of the United States, or the State, or any court, before the expiration of the time set for it to remain in place.

SECTION 17-4316. Maliciously mutilating, destroying, tearing, defacing, or obliterating any written instrument, the property of another, the false making of which would be forgery.

SECTION 17-4320. Intentionally defacing, obliterating, destroying, or tearing down any posted notice of a mining claim, or ditch, or water right, or location, or taking down, destroying, or removing any poster, or monument erected to mark such property.

A fine of not more than \$300, or imprisonment in the county jail for not more than 6 months, or both.

A fine of not less than \$20 nor more than \$100, or imprisonment for not more than 1 month.

Imprisonment in the State prison for not less than 1 year nor more than 5 years.

A fine of not more than \$300, or imprisonment for not more than 6 months, or both.

OFFENSE	PENALTY
SECTION 17-4326. Willfully, maliciously, or mischievously driving or causing to be driven, any nail, spike, iron, steel, or metallic substance, or rock or stone, into any log or timber intended to be manufactured into boards, lath, shingles, or lumber, or marketed for such purpose.	A fine of not more than \$5,000, or imprisonment in the State prison for not more than 5 years or in the county jail for not less than 6 months.
SECTIONS 17-4401 and 17-4402. Advocating crime, sabotage, violence, terrorism, or unlawful methods as a means to accomplish industrial or political reform.	A fine of not more than \$5,000, or imprisonment in the State prison for not more than 10 years, or both.
NOTE.—This crime may be committed by word of mouth, or by writing, printing, publishing, circulating, selling, distributing, or displaying any book, paper, or document advocating the commission of the above crimes, or by justifying the attempt or action of another in the advocacy of such acts, or by organizing or helping to organize societies for such purposes, or by being present at a meeting of such society, or by membership in such society.	
SECTION 17-4404. The owner of a building permitting such building to be used for syndicalist meetings, after he has been notified that it is being so used. Such action constitutes a misdemeanor.	A fine of not more than \$500, or imprisonment in the county jail for not more than 1 year, or both.

OFFENSE

PENALTY

SECTION 17-3401. Entering any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, out-house, or other building, tent, vessel, or railroad, car, with intent to commit grand or petit larceny or a felony. Such action constitutes burglary.

SECTION 17-4318. Willfully marring, disfiguring, breaking, or otherwise injuring, or molesting, or removing, or destroying any work of art, landmark, monuments, historical structure, shade tree, shrub, ornamental plant, or useful or ornamental improvement.

SECTION 17-4605. Forcibly entering any railroad car, or breaking any package therein, or breaking any package left at any depot for transportation or delivery.

SECTION 17-4505. Maliciously cutting, breaking, tapping, or making, any connection with any telegraph or telephone wire.

SECTION 17-4121. Unlawfully cutting, breaking, damaging, or interfering with any ditch, canal, head gate, or any other works whereby water is conducted to any place for beneficial use.

For burglary committed in the *nighttime*, imprisonment in the State prison for not less than 1 year nor more than 15 years. If committed in the *daytime*, imprisonment in the State prison for not more than 5 years.

A fine of not more than \$300, or imprisonment in the county jail for not more than 6 months or both.

A fine of not more than \$100, or imprisonment in the county jail for not more than 6 months or both.

A fine of not less than \$50, nor more than \$500, or imprisonment in the penitentiary for not less than 1 nor more than 5 years, or both.

A fine of not more than \$300, or imprisonment in the county jail for not more than 12 months, or both.

OFFENSE

PENALTY

SECTION 17-4307. Going upon any lands without the consent of the owner or person in charge thereof which are inclosed by fences of any description sufficient to show the boundaries of such lands, or leaving open thereon any gate, or tearing down any fence, or going through cultivated crops which have not been harvested or doing any damage to any property on such lands.

A fine of not less than \$25, nor more than \$300, or imprisonment in the county jail for not more than 6 months, or both.

DIGEST OF IDAHO GRAZING TRESPASS AND LIVESTOCK LAWS

Idaho code annotated 1932.

OFFENSE

PENALTY

SECTION 24-214. The bringing into the State by any person, firm or corporation, or the causing to be brought in, of any animal affected or infected with any contagious, infectious, or communicable disease.

A fine of not less than \$100 nor more than \$5,000.

OFFENSE

PENALTY

SECTIONS 24-208 and 24-219. Violating any of the regulations of the United States Secretary of Agriculture restraining the importation of diseased cattle and suppressing contagious diseases among domestic animals after such rules have been accepted by the Governor of the State.

A fine of not less than \$100 nor more than \$5,000.

SECTION 24-117. Violating any of the quarantine regulations for the prevention or suppression of scabies or contagious, infectious, or communicable diseases in sheep.

The same.

SECTION 24-1816. Failure on the part of any user of the public range during the breeding season to place upon such range a registered bull of beef breed not less than 15 months nor more than 8 years of age for every 25 head or fraction thereof of female breeding cattle pastured by him on such range. No bull shall be run on the same range for more than three successive breeding seasons.

A fine of not less than \$25 nor more than \$100.

NOTE.—This law does not apply to the owner of female dairy cattle taken up each night to be milked, provided such owner has for breeding such cattle a registered bull for every 50 head. The laws of the State of Idaho relative to estrays, unbranded stock, and trespassing animals do not provide adequate remedies for unlawful use by such animals of lands of the United States. Procedure against the owners of stock for damage to national forest lands should be initiated under the regulations of the Secretary of Agriculture.

OFFENSE	PENALTY
SECTION 39-603. Driving livestock over any regular public highway in violation of any order made and entered by the board of county commissioners, or the district highway commissioners, prohibiting the use of such highway by livestock.	A fine of not more than \$500, or imprisonment in the county jail for not more than 6 months, or both.
SECTIONS 34-301 to 34-305. Knowingly leaving barbed wire or barbed-wire fences down or strewn on the ground in such manner that livestock or animals running at large are likely to be injured thereby, or failing to remove such wire or fences within 10 days after notice from any person, sheriff, deputy sheriff, constable, or policeman.	A fine of not less than \$5, nor more than \$25.
SECTION 24-1601. Unlawfully branding livestock or altering or defacing brands or marks on livestock with intent to steal such livestock, or to prevent its identification by the true owner thereof.	A fine of not less than \$100 nor more than \$300, or imprisonment in the county jail for not less than 60 days nor more than 6 months.
SECTION 24-1602. Changing, concealing, defacing, disfiguring, or obliterating any brand or mark previously impressed on any livestock, without the permission of the owner.	The same.

OFFENSE	PENALTY
SECTION 24-1207. Knowingly offering for shipment without the authority of the owner any cattle, horses, mules, or asses.	A fine of not less than \$100 nor more than \$300, or imprisonment in the county jail for not less than 60 days nor more than 6 months.
SECTION 17-4202. Maliciously killing, maiming, torturing, overdriving, overloading, wounding, overworking, tormenting, beating, or mutilating any animal, or depriving any animal of necessary sustenance, drink, or shelter.	The same.
SECTION 17-2708. Knowingly selling or offering for sale or use any horse, mule, or other animal having the disease known as glanders or farcy.	The same.

DIGEST OF MISCELLANEOUS IDAHO TRESPASS LAWS

Idaho Code Annotated—1932

OFFENSE	PENALTY
SECTION 17-1027. The conspiring by two or more persons to commit any crime. Such action constitutes criminal conspiracy.	A fine of not more than \$1,000, or imprisonment for not more than 1 year, or both.
SECTION 17-2703. The maintaining or committing of a public nuisance.	A fine of not more than \$300, or imprisonment for not more than 6 months, or both.

SECTION 17-2701. A public nuisance is anything which is indecent or injurious to health, or offensive to the senses, or an obstruction to the free use of property which interferes with the comfortable enjoyment of it by an entire community or neighborhood, or unlawfully obstructs the free passage of any navigable lake, river, stream, canal, or basin, or any public park, square, street, or highway.

OFFENSE	PENALTY
SECTION 17-1006. Willfully resisting, delaying, or obstructing any public officer in the discharge of his duty.	A fine of not more than \$5,000, or imprisonment in the county jail for not more than 1 year.
SECTION 17-1030. Unlawfully exercising or attempting to exercise the functions of a deputy sheriff, marshal, policeman, constable, or peace officer.	Imprisonment in the State prison for not less than 2 nor more than 5 years.
SECTION 35-2002. Hunting, without the written consent of the owner or person in charge thereof, upon land which is inclosed by a substantial fence and upon which is posted, printed, or painted signs warning persons not to trespass thereon.	A fine of not more than \$300, or imprisonment in the county jail for not more than 6 months, or both.
SECTION 48-557. Violation of any of the rules of the road requiring reduced speed for vehicles in certain places, and limiting the maximum speed for such vehicles to 35 miles an hour, etc., except where local authorities prescribe a greater speed per hour.	<p>A fine of not more than \$100, or imprisonment in the county or municipal jail for not more than 30 days.</p> <p>Conviction for a second offense within 1 year after the first makes the offender liable to a fine of not more than \$200, or imprisonment in the county jail for not more than 60 days, or both.</p> <p>For a third offense within 1 year after the first conviction the penalty is a fine of not more than \$300, or imprisonment in the county jail for not more than 6 months, or both.</p>

OFFENSE

PENALTY

SECTIONS 48-131 to 48-136. Driving any vehicle without the consent of the owner and with intent to deprive him temporarily of such vehicle, or willfully breaking, injuring, removing or tampering with any part of such vehicle without the consent of the owner, or willfully or maliciously preventing the operation of such vehicle.

Receiving with intent to procure or pass title to any motor vehicle knowing the same to have been stolen, or to have in possession any motor vehicle knowing it to have been stolen.

SECTION 48-558. Driving a motor vehicle on a public highway while under the influence of intoxicating liquor or narcotic drugs.

SECTIONS 17-3701 to 17-3706. Forgery is defined by these sections. Because the definitions are very lengthy, they are not digested here. See the text.

A fine of not more than \$300 or imprisonment for not more than 6 months, or both.

A fine of not less than \$500 nor more than \$5,000, or imprisonment for not less than 1 nor more than 5 years, or both.

For the first offense a fine of not less than \$100 nor more than \$300, or not less than 30 days nor more than 6 months in the county or municipal jail, or both.

For each subsequent offense the penalty is imprisonment in the State prison with hard labor, for not less than 2 nor more than 5 years.

Imprisonment in the State prison for not less than 1 nor more than 14 years.

PART IV.—COMPENDIUM OF INFORMATION IN REGARD TO EVIDENCE, INVESTIGATION OF TRESPASSES, AND COURT PROCEDURE

Evidence. Investigation of Trespases. Criminal Procedure before United States Commissioners. Criminal Procedure in Justices' Courts of Montana. Procedure in Justices' and Probate Courts of Idaho

EVIDENCE

In legal parlance the word "evidence" includes all the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved.

Proof should not be confused with evidence. Proof is the effect of the evidence or what results from evidence. Evidence is the medium by which truth is established. Matters of fact are proved by moral evidence alone. Proof beyond a reasonable doubt does not mean proof beyond all doubt, as the layman sometimes thinks it does. When we consider the limitations of the human mind and the chance for error in observation and calculation, it would be unreasonable to expect a showing of proof beyond all doubt. Satisfactory evidence is that which, after it has been tested by the customary legal rules of examination, leaves on the mind of the average person the impression that the alleged fact under investigation is proved or disproved. Evidence must be competent and admissible, satisfactory and convincing. It must be sufficient. In civil cases it must preponderate in favor of one party or the other to the controversy to entitle either one to a verdict; in criminal cases it must be beyond a reasonable doubt. The competency and the admissibility are entirely distinct from the sufficiency and the effect of the evidence. The former is exclusively the province of the court to decide, and the latter is for the jury to analyze and

evaluate as they are guided by their experience in the common affairs of life.

Cumulative evidence is that of the same kind bearing directly on the same point. To illustrate: Smith made a certain oral statement to Fisher relative to his presence at a particular place at a specified time. On another occasion, Smith made a similar statement concerning the same point to Russell. The testimony of Fisher and Russell on this point would be cumulative.

Circumstantial evidence is of two kinds—certain, or that from which a reasonable conclusion follows; uncertain, or that from which a conclusion does not necessarily or immediately follow but which renders the thing probable. Additional evidence of other circumstances connected with the point under investigation would be necessary before the truth would be disclosed or proper deductions could be made with a sufficient degree of certainty.

There are mistaken notions as to circumstantial evidence, especially as to its reliability and directness. There are persons who feel that direct proof of every alleged fact ought to be and must be presented to a court and jury to warrant a conclusion as to what the facts are. This conception is erroneous, because circumstantial evidence, when properly tied together, is just as good as direct evidence. In fact, circumstantial evidence is direct evidence, and very often under a strong chain of it there is less chance to do injustice than under what is popularly known as direct evidence. The rule in criminal cases is that evidence of the circumstances relied upon to prove the guilt of the accused must be such as to produce a moral certainty in the mind of the jurors of the guilt of the prisoner and to exclude every other reasonable assumption or conclusion.

In the nature of human activity there is always evidence of a thing's being done or accomplished or of one's failure to do what one's duty to society requires. Often it is erroneously said that there is no evidence of a fact, or no evidence to connect the perpetrator with the crime. There is always evidence of the fact to be proved or evidence to connect the perpetrator with the crime. The difficulty is in revealing the evidence to prove the crime and the guilt of the accused.

Evidence of a fact always exists; therefore it is not proper to say there is no evidence.

Another common error is the assumption that because of family ties, or local animosity against existing governmental regulations, or a desire not to be a witness in a case, or because of the prospect of being adversely criticized by local inhabitants, should a prospective witness discuss the circumstances of a crime he would naturally misrepresent the facts within his knowledge. Men naturally speak the truth. They are naturally inclined to truthfulness. The truth is always spoken unless selfish or other considerations influence the mind not to exercise its natural tendency. Even the greatest liar speaks the truth, much more often than he falsifies in the course of everyday events. Therefore the statement of a person in regard to any matter under investigation should not be rejected or considered unimportant because the investigator has learned that the person interrogated has had or has the reputation of being untruthful at times.

Furthermore, even though some untruth might be found in the statement of a person having personal knowledge of a fact, still, on account of the natural tendency of his mind, there might be truth mingled with untruth in his version of the affair. And the investigator, from the limited truth presented, might be able to use the valuable part of the statement as a leader or guide to other sources of truth which if disclosed would be sufficient when correlated with what had already been ascertained to prove the matter under investigation.

For this reason an investigator who understands his business will never reject an item having either a direct or an indirect bearing on the subject matter. Moreover, in nearly every statement made by the ordinary man in which are described the occurrences connected with and surrounding the point to be proved, there are immaterial allegations. It is the duty of the investigator to select and utilize the material part and to disregard the immaterial. A keen mind can nearly always separate the valueless stuff from that which has a tendency to prove the point under investigation.

As men in general do not violate the penal code, the law presumes every man to be innocent. But some men do transgress the law; therefore reliable and sufficient evidence is required to rebut this presumption.

This legal presumption of innocence is to be regarded by the jury as evidence favorable to the accused; and, if the guilt of the accused is to be shown by circumstantial evidence, the proof ought to be not only consistent with the prisoner's guilt but inconsistent with any other rational conclusion. While there is a presumption of innocence, evidence of certain circumstances may raise also a presumption of guilt which might outweigh the presumption of innocence.

For instance, the possession by the accused of the missing property of another would warrant a presumption that he stole it unless the possession is explained by him. Also, in a case of arson, finding in the possession of the accused property which was known to be in the burned building a short time prior to its destruction would warrant a presumption that the accused was in some way connected with the crime. The presumption of guilt may also be proper if a person destroys or suppresses something which would evidence the truth of the matter under investigation. This is on the ground that proof of the truth would operate against the accused. These presumptions are, however, for the jury to weigh and pass on. They are not conclusive presumptions upon which the court could render judgment in a criminal case.

Every person accused of crime ought to have his case tried according to established rules of procedure in order that he may not be convicted through inadmissible and incompetent evidence which might be given undue weight by a jury to the injury of the accused, or which might be misinterpreted through prejudice or wantonness or ignorance or mistake. Hence certain rules of law are prescribed in order to regulate the introduction of evidence and to safeguard the legal rights of the accused. The presentation of evidence to a jury is, therefore, governed by four general principles:

1. The evidence must correspond with the allegation and be confined to the point in issue.
2. The evidence is sufficient if the substance only of the issue be proved.
3. The burden of proving a proposition, charge, or issue lies on the party holding the affirmative.
4. The best evidence of which the case, in its nature, is susceptible must always be produced.

It is not necessary, however, that the evidence bear directly upon the issue or charge. It is admissible if it tends to prove the issue or is a link in the chain of proof. Also acts and declarations of the accused made at a former time are admissible to prove the intent of the same person at the time of the commission of the crime. Acts and declarations of the accused, after the time of the commission of the crime, are competent if they tend to establish his guilt. It should always be remembered that in every criminal case the burden of proof is on the Government to convince the jury of the guilt of the accused, according to the manner and form of the complaint or indictment. In a criminal case proof of the doing of an act by a specific person is not sufficient for conviction. It must be shown, in addition, that the act is unjustifiable and unlawful.

That the best evidence of which the case is susceptible must be produced is a well-established rule of judicial procedure. This does not mean the greatest amount of evidence. The design of the rule is to prevent the introduction of secondary evidence while the original is in existence and while it is within the power of the party to produce it. It is well to remember, too, that this rule does not comprehend the strength or weakness of evidence. The scope and intent of the rule is to prohibit substitution while the original is available. For instance, the production of the original written document is the best evidence of its contents. A copy of it or a statement of its substance by a person who read it would be secondary evidence. There are, however, some exceptions to this rule. On account of the inconvenience incidental to the removal of public records from their permanent depository, certified copies of these records are accepted in courts of justice instead of the originals.

All forest officers should realize that hearsay evidence is never accepted by courts of justice as proof of any fact. Sometimes officers and laymen find it hard to distinguish between hearsay evidence and other evidence. We are so prone in the everyday affairs of life to accept as true what others say regarding any occurrence not subject to our own observation, or tested by our senses, that we unconsciously pass it on to our neighbors as truth. Courts of justice, however, do not allow a person to testify as to any matter unless he has acquired his knowledge by personal observation

of the transaction, occurrence, or thing, or acquired his knowledge through the exercise of his other senses upon the subject matter covered by his testimony. If John Smith tells you he saw Howe commit a specific crime, you cannot testify as to what Smith told you about Howe. Smith must appear to testify as to this fact. Of course, if Howe himself admitted to you that he did the act or the wrong, you could testify as to the conversation, since this would not be hearsay.

There are some variations of this rule, but the above explanation covers the general practice. The practice of admitting evidence of general reputation or of good character in a community might be mentioned as an exception to the rule relative to hearsay evidence. Another exception is the statement or admission of one of the parties to an illegal conspiracy. After the conspiracy has been entered into, the statement of one of the members of it is binding on the others, even though they were not present when the statement was made. A confession of guilt is also good evidence, provided it is made voluntarily. If it be made under intimidation or under the flattery of hope, it is not admissible. All of the conversation in which the admission of guilt was made must be recited and left for the jury to judge and weigh.

The means of proof or the instruments of evidence are divided into two general classes, viz, unwritten and written, or in other words, oral testimony and documentary evidence—maps, charts, weapons used in the commission of crime, articles of clothing and adornment, personal property of various kinds, models, specimen exhibits, etc.

INVESTIGATION OF TRESPASSES

Qualifications of an Investigator

The greater a man's ability the more he can accomplish in this as in any other work. Qualifications peculiarly necessary for an investigator are observation, common sense, and ability to work. Nothing is so small that it can safely be overlooked; a whole case may turn on what seems a most unimportant detail. On the other hand many details are unimportant. The correct judging of what is important depends largely upon the power to picture constantly in the mind the whole case and its probable development. Beware of

letting anything go as unimportant without carefully weighing it.

Catching a criminal is a battle of wits. Success in difficult cases requires special aptitude, and only with hard, intelligent thinking will an officer be successful.

Preliminary Information

Success demands thorough preparation. This includes not only a knowledge of the laws and procedure under which we work, but an intimate knowledge of the region of the crime, such as topography, trails, and other get-away avenues; of the persons existing in every community who know all about the rest of the community; of the habits, rendezvous, and associates of general community suspects, and of their family, business, and other relationships, so that in seeking information from others you may not unwittingly kill your own game by approaching one of the suspect's close sympathizers.

Starting Out

Investigative work, especially in fire cases, demands even greater speed in get-away than in suppression. If footprints lie for days, or even until after the suppression crew has tramped over the ground, before they are investigated, not only may they be obliterated by others, but the defense will not be slow to take advantage in a court trial of the possibility that tracks proved to be those of the defendant could have been made after the offense was committed. The latter danger applies to other trespasses as well as to fire. Our safety lies in starting investigation on the ground with all possible speed.

Procedure

The first man or men at a fire must look for clues and preserve any found. The man in charge of the fire crew should, of course, be the leader in the search for clues in the vicinity of the fire or the point where any offense has been committed. If the tracks of men or animals or means of conveyance are found, an effort should be made to prevent their obliteration or injury to their distinctive features until a qualified officer shall have opportunity to examine them and make casts of them, if necessary. The men and animals engaged in suppressing the fire should be required to keep outside of the area containing the imprints if this is at all practicable.

Require men in charge of fire fighting to keep eyes open for clues and to note people met on trails, with time of meeting, especially outsiders first on the scene of a fire, who may be the setters, with an irresistible desire to see it burn; to keep ears open for boastful or antagonistic remarks of fire fighters, who may themselves have set the fire, or know of those who did; and to report anything learned at once to the ranger or other forest officer in the vicinity.

Searching for Clues

Anything is a clue which has any connection with the offense or its author. Tracks, camp-fire or lunch remains, "plant" used to set off a fire, blanket or other threads pulled off by brush or trees, hairs, scraps of paper, or other things left by the offender, are examples. A good working rule is that everything is to be held as a clue which cannot be accounted for without reference to the offense.

But nothing is a clue without the interpretation which can connect it with the deed. Some things, such as tracks, the forest officer can interpret better than any outside expert; in other words, we are ourselves the best experts. Other things can be interpreted only by those with special training—for example, by the microscopist, the chemist, or some other specialist.

The Working Theory

To guide the investigator in the interpretation of clues, two things are necessary: (1) Every bit of knowledge he can gather before leaving for the scene or on the way, as to the offense, including its occurrence, surrounding circumstances, probable author, and motive; and (2) the building of a mental picture of all that is known of the case. Constant revision of the theory and coordination of clues are necessary. Nothing else will prevent wandering, loss of time, and possible failure. The theory first set up may afterwards prove to be erroneous, but it has very frequently happened that the theory, though a false one, has been the bridge which led to the truth.

How to Search

Upon arriving on the scene, first locate the critical point—for example, the origin of a fire. If the point of origin is not evident, beware of jumping to conclusions; the incendiary or other criminal does not do the ob-

vious thing if he has any sense. Examine minutely the immediate area. Definite system is absolutely necessary in this search. Go systematically around the circle, widening the circles each time, but keep them close enough together.

Notebook Record

Record must be kept of everything found and done and of all material conversations held or information gathered. Describe in the proper notebook everything that is found, so that the notes may be used later to refresh your memory should you be called to testify relative to those things. The time of every occurrence should be recorded. Also ascertain the exact time the fire was started, or discovered, when fighting commenced, and all other significant circumstances.

The time of making material entries in the notebook should be entered in the notebook and such time records should be based on actual examination of a well-regulated watch. Important information should be entered in the notebook immediately after it is obtained. Testimony based on a notation made immediately after an occurrence is much more convincing to a court and jury than that based on an entry made at the end of the activities of the day or later.

Maps and Photographs

Accurate maps and photographs are the best means of showing in court many of the facts of a trespass and are nearly always necessary. It is unusually difficult to present the facts of intricate cases to the court and jury in an understandable way without the aid of these guides. Maps should be as accurate as possible and should represent the area in diagrammatic outline with as little printed or written data as possible. Symbols should be used to identify material points and to aid the maker of the map in explaining to the jury the relation of topography, culture, etc., to the trespass area. Printed matter indicating the guilt of the accused should not be put on the map, since it would prohibit its use as an exhibit at the trial. In taking pictures a proper note should be made of the film used and of the time, place, and circumstances under which the object was photographed. In civil cases the same strictness relative to printed or written matter on maps is not enforced. Remember that photographs involving scenery are more desirable if taken from the level

of the eyes. The photographic record should show the point where the camera was set, the direction from which the picture was taken, angle of view included. A picture should show the relation of one or more material things or points to other material objects. Example: Relation of the railroad rails and ties to the point of origin of the fire on the railroad right of way.

Objects

The finder must put on each object found a private mark, in a hidden or inconspicuous place, by which he can himself identify it in court. This, together with the record of the circumstances of finding, arranged in a notebook, is the best safeguard against an intimation by an opposing attorney that evidence has been "planted."

All objects which may be needed as evidence should be guarded to avoid the possibility of loss, misplacement, or theft. The forest officer should take charge of all such articles, unless it be desirable to turn them over to the regional forester or county attorney. If the forest officer turns them over to the county attorney he must enter this fact in his notebook so that they will not be overlooked in working up his material for the case.

Plan of Campaign or Working Theory

You start with a few facts and a tentative theory based upon them. Whenever clues or facts are found, ask yourself: (1) What instructions, if any, are there in respect to a situation like this? (2) What do these mean? There is no time to be wasted; but right interpretation of facts and right action respecting them are so essential that the time necessary to insure these will yield bigger dividends than haphazard action.

The simplest working theory which will explain the facts is to be preferred. At all times, but especially at first, when the theory is based on few facts, it must be lightly held, subject to modification at any time by what shall be discovered later, regardless of whether the new facts agree with the previous theory or not.

Such open-mindedness is harder to maintain than many people suppose. It is easy to overvalue facts which coincide with a theory already built and to undervalue those which do not. Nothing is more common among inexperienced officers or more fatal to success than holding such a preconceived theory.

Therefore it is necessary to review one's theory frequently in the light of the facts discovered later.

In building a sound theory there are four steps:

(1) Get a clear definition of the problem.

(2) Cast about for possible solutions—not only the first one which occurs to you but as many as you can figure out; then compare their merits and select the most probable one.

(3) Reason out the developments of this idea; by pushing it to a final conclusion you will probably be able to determine whether or not your idea or theory of the problem is warranted.

(4) Constantly test your theory by searching for further evidence or by experiment.

To be complete, the theory must answer the following questions: (1) What was the offense? (2) Where was it committed? (3) When was it done? (4) How was it accomplished? (5) Who did it? (6) Why did he do it?

Memorize these six words, *what, where, when, how, who, why*, and frequently test by them the completeness of both your theory and the facts. This will be one of the great helps in planning what remains to be done.

Whenever a fact is found which points to a material conclusion, ask yourself: (1) Does this sufficiently prove the conclusion? (2) What else, if anything, will be necessary to establish it in court?

A jury will only be convinced by a complete chain of evidence, both as to facts and the proof that they are facts. Review this chain while following clues to be sure no link is omitted. Make each link as strong as possible.

Tracks are important clues. If a fire was set, or other offense committed by human agency, a man walked or rode there to do it. He may sidestep or cover up tracks in the immediate vicinity of the offense, or the tracks may be obliterated by others. If no tracks are found at or near the origin of the crime extend the search for them to a wider area.

Identification of Tracks

In identifying tracks, the study of their detail is essential; dimensions and shape of imprint, nails (present and missing), seams, creases, cracks or other distinctive marks; wear, repair; age of track; methods of putting down the foot (twist as foot strikes the

ground, etc.); angle of feet (toes out straight ahead, or in); and differences, if any, between the feet in this angle; barefoot, smooth, or rough-shod horse tracks; specially shaped or weighted shoes, and gait of animal (such as trot or pace).

Age of Track

The age of a track may be estimated by the condition of it, by moisture and color, whether leaves and dirt have fallen into it, or tracks of insects, birds, etc., or other man-caused tracks, have crossed it. One of the best indications is the condition of manure dropped by an animal. A trail made at night is often known by its abrupt changes, and detours around obstacles.

Other Indications

Approximate speed may be shown by the degree of slide at the heel, the depth of the heel edge and toe edge, the length of drag at the toe, and the distance between tracks. The class of person or animal can sometimes be deduced from tracks (high-heeled vaquero boots, new or pointed-toe shoes, horseshoes, or mule shoes, etc.); also whether the individual was drunk or sober; carrying a burden or free (feet wider apart, steps shorter and more unsteady with burden); and the existence of bodily defects (step is shorter on lame leg; injured knee or hip twists foot tracks, etc.). A confidential talk with the local shoemaker or blacksmith, will often throw light on the ownership of shoes which make a peculiar track.

Following Tracks

Following tracks requires experience and skill. Points sometimes overlooked are the following: In dry pine needles breakage or minute differences in color are often discernible on hands and knees though the needles have sprung back to position and no trace is visible while one is standing. Tracks in dry grass also require extremely close attention; barring wind, grass will usually hold what impression is made until the coming of night dew, fog, or rain. Through brush a trail can be followed by observing broken or skinned twigs near the ground although no signs are visible on the ground itself. When the trail is broken or lost, circle ahead in the probable direction of the trail. Setting stakes by the tracks found will help to line up the course.

Comparing Tracks

To convince a jury we must absolutely identify tracks found with known tracks of the suspect. A track may be compared with a foot or shoe for identifying marks. In respect to dimensions it is better to compare tracks with moving tracks, since tracks made in soft earth, especially at high speed, are always shorter than the foot making them because of the push toward center at heel and toe. Keep in mind that as a general proposition a track is little more than a clue. Standing alone, the cast of a track of an accused man is not very convincing to a jury. There must be other evidence on which to secure a conviction.

For the purpose of comparing the tracks found with those of the suspect, or the horse or other animal of the suspect, induce him or the animal to traverse some soft surface in the vicinity of his home or out-buildings where distinctive tracks are likely to result. This will give opportunity for comparison at the proper time. Examinations or measurement should be made at the earliest possible date before obliteration or partial change in the track occurs.

If possible, the object that made the track should be obtained and used for comparison with and identification of the original track or a cast thereof.

Record of Tracks

The original track, or a cast or replica of it, is the most convincing evidence in respect to it.

If practicable, it is desirable to make a cast of the track with dental plaster of paris. Plaster of paris sets quickly. From the cast a replica of the track can then be made, or not, as desired. When the soil composing the print is firm enough, the dry plaster may be placed on a large spoon and the arm of the spoon tapped lightly and frequently to allow the dry plaster to drop very slowly into the imprint, until the plaster bed has a thickness of one-eighth to one-fourth inch. Then with the fingers sprinkle clear water very lightly into the dry plaster in the imprint. Pour in some more dry plaster and again sprinkle with water. Repeat this process until the plaster cast is at least 1 inch in thickness. Let the cast rest in the imprint for at least 30 minutes, then cut around it with a jackknife and excavate the dirt deep enough to be sure that the cast will not be injured in removal. Take the cast and

attached dirt to a pool of water or stream or trough, and wash off the dirt. For 2 or 3 hours the cast should be handled carefully, until it has hardened sufficiently for transportation. If the imprint is snallow, a dam of earth should be buint around it before the plaster of paris is poured into it.

To make a replica of the original track from a cast, the upper surface of the cast should be as level as possible. The cast should be washed clean, and then greased, either with an oil which is fluid at air temperature, or, if thicker, heated until it is very fluid, so that no crevices or other marks may be filled up and thus be obliterated in the replica. The greasing is to prevent sticking. The cast is then laid top down in a suitable box or other receptacle, and wet-mixed plaster is flowed over it and reinforced, as in making a cast. The original cast or replica so made may be expected to be slightly too small to accommodate the object which made the track. Care should be taken not to allow a jury to be prejudiced by this fact.

If it is not feasible to secure the track itself or a cast of it, the best remaining method is to photograph the track. The camera lens must be exactly parallel to the surface photographed to avoid distortion of the perspective. This may be done by the aid of a clamp for attaching a camera to a board or other similar support at any required angle. For use in court the photograph may be enlarged.

Restoring Mutilated Papers

In piecing torn paper together, first hunt for corner pieces, then for edges, and afterward work up the interior. As the back of the paper may be important, it is advisable to paste the fragments on a transparent medium like tracing linen, or to lay them between clean glass plates which may be bound together. If the writing on the paper is not in copying ink or indelible pencil, the paper may be moistened by the spray from an atomizer or by the steam from a teakettle. This helps to straighten it out if it is badly curled or bent. Dim writing comes out plain in a photograph. Worn or fragile papers may be made indestructible for handling by dipping them in a solution of 1 part of stearine to 3 parts of collodion, and allowing them to dry 15 minutes.

Preserving Perishable Evidence

Perishable evidence is often best preserved by being placed in cold storage. It may often be preserved in alcohol. In the absence of cold storage, formalin or formaldehyde is best for fish or game meat. These preservatives, however, destroy the natural color. If it is impossible to preserve any articles of evidence, be sure to have witnesses to its finding and its nature or identity while it is yet in its original condition.

Making Use of Experts

To the layman one of the most striking services of the expert is that of the microscopist who deals with a world invisible to the unaided eye. He can tell, for example, whether a hair is from deer, cow, horse, dog, or human being and the race, habits, and probable age of an original human possessor; from carpet-sweeping dust the number, age, character, habits, food, and recent occupation of, as well as visitors recently entertained by, the occupants of the room from which it is taken; from finger-nail deposits the food, occupation, habits, and whereabouts of the person from whom they are taken for a week or so prior to that time; and he can often derive substantially the same information from a shred of clothing or even from knives or other articles much handled by an individual. He can identify deer or other game meat or blood and distinguish beyond question between them and beef, chicken, etc.

It should also be borne in mind that expert testimony, which is usually in the nature of opinion rather than fact, must be given by the expert responsible for it and not by proxy, and arrangements should be made in advance for the expert's attendance at court.

Getting a Lead

In deciding to whom to go for possible evidence, eliminate at once the busybodies, who always know all about it but generally know nothing worth much, and go after those who really know most or were first on the ground. Unless the act be incendiary or malicious, or done stealthily, the person to interview first is the one who committed the act, if this be practicable. No one knows more about the crime than the man who committed it, and the best results are generally obtained by getting in touch with him promptly. Under clever and prudent interrogation, the offender will almost invariably say something of value in the

case. And he is likely to do this even when he is determined to suppress information relative to the offense. The same is true regarding those offenders who desire to suppress facts which might implicate them. Until the officer investigating a malicious or incendiary crime has sound reasons for suspecting a particular person, that person should not be interviewed relative to the offense. No person should be directly charged with an offense by a forest officer. It is much better to discuss the crime on general grounds with the suspect. In other words, "speak softly." Always remember that a confession obtained after a threat or promise of leniency is not admissible as evidence to prove the guilt of the accused.

Hints on Interrogation

A witness may make inaccurate and unimportant statements to an investigating officer who lacks shrewdness and tact, while the same witness will make precise, true, and important statements to an officer who can read him and knows how to handle him. In many instances a man's confidence is obtained by evincing an interest in his business or hobby.

Persons having no interest in the offense or the offender will generally tell the truth; the testimony of those who have such interest should at least be taken with caution. However, it should not be overlooked that one of the latter class may be upright enough to tell the truth.

Truthful witnesses may be divided into those who are willing to tell what they know, and those who are reluctant to do so. Most people are of the latter kind; the average American not only has an exaggerated unwillingness to "peach", even on a wrongdoer, but is himself so busy that he doesn't want to get mixed up in other people's troubles if he can avoid it.

Attitude of Officer

Much of the success to be gained depends upon the aptitude of the officer. Judge your man. Be firm and diplomatic with the bold, patient and considerate with the timid. After you have collected valuable information from any person you should test his source of information—that is, find out whether he has acquired the knowledge by personal observation or through hearsay. This is very important, since many men

unconsciously restate what they have heard as if they were the original discoverers of the information.

Getting the Story

There are two considerations: (1) To get from witness as complete a statement as possible. Be sure nothing essential is omitted, but don't let him ramble aimlessly. (2) To be sure he is telling the truth. Even a willing witness is not necessarily truthful.

Having a clear mental picture of the case will show what further evidence is needed. The six watchwords of a complete case are again valuable reminders.

The method to be used depends much upon the witness. Unless he wanders, it is best to let him tell his story straight through in his own way. Then question him until you are sure that he cannot or will not add anything more of value. Take sufficient time.

Read to the witness what you have written; ask him if it is correct; change any items which he may desire corrected; have him sign it.

In case a witness refuses to make or to sign a written statement, but will talk, get him to talk in the presence of two or more reliable witnesses. Afterwards write down and have the other witnesses write down the essential parts of his statement as nearly verbatim as possible in such form that they may be used as memory refreshers in court.

In addition to the record of what was said, put down in your notebook the circumstances of the conversation, persons, witnesses, time, and also all the conclusions for future guidance which you can draw from the facts thus learned.

Some men cannot be induced to make a statement, but say that if they are put on the stand they will tell the truth. If their resolution not to talk cannot be shaken, the only thing to do is to try to get indirectly an idea of the nature of their testimony.

Unintentional Offenders

The general methods indicated for the interrogation of witnesses apply to a great extent to the interrogation of unintentional offenders, such, for example, as those who thoughtlessly leave camp fires burning, especially if they are inexperienced and do not realize the danger. Courteous treatment and an evident purpose only to do one's duty, with regret for the inconvenience necessarily inflicted, are usually more effective than is treat-

ing them like common criminals, and will often induce confession and a readiness to "take their medicine."

Inaccuracy in Statement

Inaccurate statements may result from the following causes:

(1) *Poor observation*.—A man may see only part of a total action and have a very inadequate or mistaken notion of the whole; a man sometimes sees what he expects to see; people also often hear imperfectly or mistakenly.

(2) *Poor comprehension and reasoning*.—Inference is a part of every mental operation. When we see a clock face, we take for granted that there is a clock behind it, but there may not be; a tenderfoot thinks mountains are much nearer than they are because he infers the distance which the given appearance implies in low country; illiterate people distort long sentences and piecing them out by inference twist the meaning.

(3) *Poor memory*.—Many people have poor memories. Beware of people who remember everything; their testimony is usually open to suspicion. Memory can be helped by talking of the event in question, often by discussing unimportant incidents or a man's occupation connected with the thing to be remembered. But give him time; don't hurry him. Do not press an emotional witness too far; there is real danger that by your forcible suggestion you may lead him to imagine what he never saw or knew.

(4) *Influence of other people's statements*.—Untrained persons who have seen or known part of an exciting incident unconsciously try to complete the matter by fitting what they have seen or known with details told by others. They may end by weaving the whole garbled mass of hearsay into their own story as what they saw and heard and know.

(5) *Strong feeling*.—Excitement and fear often lead one to exaggerate, or to overlook important details.

(6) *Temperament, age, occupation*.—A ranger looking at cattle range sees at a glance whether the range is overgrazed, or grazed in patches because of poor salting or water development; a city man sees cattle, but not the other factors, and couldn't be expected to give an intelligent statement on such matters.

(7) *Fear of consequences*.—Be sure to relieve a witness's mind of a possible impression that you want to implicate him, etc., if such inferences are without cause. Frightened people, imagining themselves suspected, always shuffle in testimony. This should be a danger signal, although the shuffling may not always be due to fear.

(8) *Poor questioning*.—Good questioning requires hard thinking. Be sure nothing is missed. Follow your own course and do not be led or pushed by the witness.

Increasing the Accuracy of Statement

Much can be done by careful questioning and suggestion to clear up obscure statements and to supply omissions. Check the witness's accuracy, for instance, as to height of people; ask him if the man he mentions is as tall as you are; check distances by asking about something in sight; verify his power of recognizing persons, estimating numbers, etc. It is sometimes necessary to verify statements independently of the witness.

The Main Case

Arrange the material so that it tells the story in chronological order. Confine the main case to the material essential to a clear and complete chain of evidence. This has the advantage of giving the jury a clear impression; too great a mass of evidence may muddle the main issue in their minds. Any additional material should be carefully worked up with a view to use in rebuttal or in connection with surprise defenses.

Have your record perfectly clear as to what part of the chain the testimony of each witness and each piece of documentary evidence will fit, and just what link each exhibit will support. Avoid repetition as far as possible.

Appendix

A list of the witnesses, with brief notation of the exact facts to which each will testify, together with all documentary evidence and a list of exhibits, should be collected in an appendix, each separate item being designated by letter, as, for example, "Exhibit A." This helps both in completeness and in keeping the narrative clear.

The Court Map

The map to be presented in court should be on a scale large enough to be legible when hung up so that all the jury can see it at once, since it is much more effective when used in this way. It should be confined to the data essential for the purpose, but it should show this with the utmost clearness. Its legend should also give its approximate scale, and, if angles of view are material, a statement that these are correct. Every care should then be used to see that they are correct. Any "trespass" or other designation on the original, to which the defense could object as tending to prejudice the jury in advance, must be omitted. Symbols should be used on the map to show material points, fences, railways, roads, buildings, and things.

Proclamation diagrams of the national forests can be found in the volume of the United States Statutes at Large covering the year in which they were issued. Private land boundaries must as a rule, be obtained from county records.

Report to Regional Forester

A report in accordance with a special form provided must be made and forwarded to the regional forester on each case prosecuted in a State court as soon as possible after the trial has ended. This is absolutely necessary in order that proper check may be made of the progress of law-enforcement work and in order that the assistant to the solicitor may be furnished with the data for his monthly report to the solicitor. Reports on cases to be prosecuted in the Federal courts must be submitted to the regional forester before legal action is initiated. Should the prosecuting attorney of the county or the supervisor desire assistance in the handling of a criminal trespass in the State court, a special report of the circumstances should be sent immediately to the regional forester.

Expenses of Forest Employees in Criminal Prosecutions

Forest officers will be officially reimbursed for all necessary expenses incurred in accordance with the fiscal and administrative regulations of the Department of Agriculture in the transportation of a person arrested without warrant by a forest employee and for necessary subsistence of such person at hotel, etc., until he is

delivered to the jurisdiction of a United States commissioner or to the jurisdiction of a police judge, probate judge, or justice of the peace. If an offender is brought before a United States commissioner or a State magistrate on a warrant, all expenses incurred after the issuance of the warrant (except the forest officer's salary and expenses) are chargeable to the Federal court through the commissioner or to the proper city or county through the police judge, probate judge, or justice of the peace, as the case may be. Subpoenas should be issued for Government witnesses so that their mileage and fees may be paid by the United States commissioner or by the local justice if the case be prosecuted in a State court. The Forest Service cannot legally pay mileage or fees of offenders or witnesses already under the jurisdiction of Federal or State courts. However, it sometimes happens that neither the Federal court nor the State court can pay the mileage or fees of a necessary Government witness because of legal restrictions. In a case of this kind local administration would justify the hiring by the Forest Service of the proposed witness as temporary laborer during the period necessary to attend the hearing and trial. Under these circumstances the temporary laborer would receive reimbursement for his transportation and other expenses incurred while attending the hearing and trial on form 1012 accompanied by subvoucher. It is impossible to frame general instructions which will fit every contingency. In case of any doubt specific advice should be sought before incurring the contemplated expense.

Search Without Search Warrant

Forest employees who, pursuant to the laws of Idaho and Montana, have been appointed or designated as special and deputy fish and game wardens, may *without a warrant* search certain places and articles for any species of game animals or fish or fur-bearing animals or game birds illegally obtained. No authority is conferred by law on any officer, whether Federal or State, to search a man's home or the outbuildings connected with his home without a search warrant.

Under Montana law, special deputy State fish and game wardens, sheriffs, deputy sheriffs, State forest officers, constables, and peace officers are empowered to search *without warrant* for game animals, fish, fur-

bearing animals, or game birds, or parts thereof, any tent not used as a residence, boat, car, automobile, or other vehicle, box, locker, basket, creel, crate, game bag, or other package. With a search warrant any of these officers may search a residence or other building, or places, or articles, not defined above. The Montana law does not specifically authorize national forest employees to act as special deputy State fish and game wardens. They must be appointed by the State fish and game warden before they can legally perform the duties of such wardens.

National-forest employees in Idaho must be appointed by the State fish and game warden before they can legally act as deputy game wardens. In practice forest officers in Idaho receive from the State fish and game warden commissions as evidence of their right to enforce the game laws. Deputy game wardens of Idaho may inspect *without warrant* depots, cars, warehouses, cold-storage rooms, warerooms, restaurants, hotels, lodging houses, markets, baggage, packages, and packs held for storage or shipment or sale, which they have reason to believe contain evidence of fish or game law violation. With or without search warrants they may search upon reasonable suspicion, baggage or packs, tents, wagons, autos, vehicles, and camps, for game animals, fish, birds, or fur-bearing animals captured in violation of law. Other places and personal effects may be searched for game animals, game fish, game birds, and fur-bearing animals under authority of a search warrant. A search warrant should be read to the owner or occupant of the place or thing to be searched. (See under the subtitle "Search Warrants" the description of the powers conferred by search warrants.)

Fire Law Enforcement Suggestions

Special instructions for forest guards and firemen on investigation of forest fires, are inserted in form R. 1-F-31.

CRIMINAL PROCEDURE BEFORE UNITED STATES COMMISSIONERS

United States Commissioners

A United States commissioner is an officer of the United States district court in the district for which he is appointed. He exercises criminal jurisdiction within

very narrow limits. He has no power to impose a penalty for any offense. Neither can he inflict punishment for contempt of his court. All he can do regarding contempt offenses is to report them to the proper United States district judge for disposition.

Powers and Duties

In criminal matters a United States commissioner is authorized by Federal law to issue warrants, upon proper complaint, for the arrest of offenders against the laws of the United States and cause them to furnish bail pending trial. He may cause any alleged offender to be imprisoned pending trial by the United States district court if the accused fails to furnish satisfactory bond for his appearance for trial.

Criminal Complaints

Unless a sufficient written complaint under oath is filed with a United States commissioner and a showing of probable cause for holding the accused for trial be made, there is no legal authority for keeping the defendant under bail or in prison.

The laws of each State included in Region 1 require a criminal complaint to be sworn to and to be based on the personal knowledge of the person making the charge. Therefore a criminal complaint filed by a forest employee or other person with a United States commissioner must be supported by oath, and the facts showing the crime and that in all probability it was committed by the accused must be shown at the hearing by evidence based on the personal knowledge of qualified witnesses. A form of criminal complaint is given under the title "Criminal Forms." A certified copy of the complaint should be attached to the warrant of arrest in order to inform the defendant of the substance of the charge against him.

The complaint must designate the specific offense committed with such particulars of time, place, person, and property as will enable the defendant to understand clearly the character of the offense charged. Extreme care should be used in drawing the complaint, since not only the arrest but the case in court will be based upon it. In the wording of the complaint the language of the law which defines the offense, should be used. Include only what you are sure you can prove. In a larceny case, for example, the name of the owner or custodian of the property and the exact items and

numbers charged as stolen must be proved or the case will fail.

As a general rule only one offense can be charged in a criminal complaint. If two or more men are taken for one offense, they should be charged jointly, since this saves the time and the expense of multiplication of charges.

Arrest of the Accused; Serving the Warrant

There are two ways by which a person known to have committed an offense against any Federal forest law may be brought before a United States commissioner for preliminary hearing.

(1) Any employee of the Forest Service may arrest any person found by such employee violating any law or regulation relating to the national forests.

After arrest the prisoner should be taken immediately before the nearest United States commissioner, or justice of the peace if no United States commissioner be available, where a written or printed complaint under oath must be filed by the forest employee who made the arrest or by any other person who has personal knowledge that the prisoner committed the crime.

(2) The forest employee must first file a complaint under oath with the United States commissioner, who will issue a warrant for the arrest of the accused. This warrant may be directed to the forest employee for execution, or to the United States marshal or his deputy, provided the offense charged is a violation of any law or regulation applicable to national forests. If it be necessary to expedite the arrest, the forest employee may execute or serve the warrant, provided it directs him to do so.

If the offense charged be against some other Federal law, such as that governing the stealing or embezzling of personal property or money of the United States, a forest employee is without authority to execute the warrant, even though he is the complaining witness. The arrest must be made by a United States marshal or one of his deputies.

Whether the arrest be made by a forest employee or by an employee of the United States marshal's office, the complaining forest employee and the other Government witnesses in the case should appear at the preliminary hearing before the United States commissioner in order to prove to the commissioner that there is

probable cause on which to require the prisoner to appear for trial in the United States district court.

Attendance of Witnesses

Just as soon as the forest employee files, or has caused to be filed, a formal criminal complaint with a United States commissioner, he should furnish the commissioner with the names and post-office addresses of the witnesses for the Government. Forest employees should appear voluntarily at the preliminary hearing if necessary.

The commissioner will then issue a subpœna for each witness desired; the total number must not, however, exceed four. Only four witnesses can be legally subpœnaed at the expense of the United States to testify at a criminal preliminary hearing before a United States commissioner unless their subpœnas are specifically authorized by the United States district attorney.

Subpœna and Service Thereof

A subpœna issued by a United States commissioner may be served by a forest employee. This function is, however, generally performed by the United States marshal or his deputy. Usually the delay incidental to the service of a subpœna by the United States marshal's office causes considerable inconvenience in getting action before the United States commissioner. Generally speaking, the Forest Service will have little difficulty in expediting preliminary hearings, since it is seldom necessary to have at the hearing other than forest employees to establish probable cause.

Arraignment of the Accused

Upon the arraignment of the accused before the United States commissioner the criminal complaint should be read and explained to the accused. He should be given reasonable opportunity to employ legal counsel, should he desire to do so before any testimony is introduced. He may waive hearing and ask to have his case sent to the United States grand jury for consideration. In the latter case there is, of course, no need for the introduction of evidence.

Postponement of Preliminary Hearing

It is within the power of a United States commissioner to postpone from day to day a preliminary hearing so long as he does not abuse the privilege.

Witnesses

A witness in a criminal case may be required by the United States commissioner presiding at the preliminary hearing to give bond or recognizance for his appearance to testify in the United States district court at the trial of the accused. If the bond required is not furnished, the United States commissioner may upon order of the local United States district court, commit the witness to prison pending action in the case by the Federal grand jury or the United States attorney.

Witness Fees

In criminal proceedings before United States commissioners the witness fees prescribed by law are limited to \$2 per day and 5 cents per mile for travel each way. If such witness cannot return to his residence from day to day he is entitled to a per diem of \$3. A witness who appears voluntarily to testify is entitled to fees if he be one of the limited number allowed.

Search Warrants

United States commissioners are authorized by the act of June 15, 1917 (40 Stat. 228; United States Code, title 18, sections 611 to 633), to issue search warrants, upon a positive showing by affidavit covering the facts within the personal knowledge of the affiant, indicating the grounds for his belief that on the person or in the place or residence to be searched there is concealed property of the United States which has been stolen, or embezzled, or used as a means of committing a felony. In addition to the affidavit the complainant and any witness he may produce must submit to an examination by the United States commissioner as to the facts within their personal knowledge relative to the whereabouts of the property and the person or place to be searched. This statement must be reduced to writing and sworn and subscribed to by the complainant and any such witness. Great care must be taken to comply strictly with these provisions or the property obtained by virtue of the search warrant cannot be used as evidence against the offender. The provisions of the State laws applicable in Region 1 are substantially similar to those outlined herein.

Hearing

The presentation of a case to a United States commissioner is usually a very simple matter. In general

the methods employed in a State justice's court are permissible. There is no jury to select, as frequently must be done in a justice's court. The commissioner is the judge of the facts submitted and from them determines whether or not there is probable cause for holding the accused for trial. All that the forest officer in charge of the case for the Government has to do is to present in logical order the facts or circumstances which he deems sufficient to convince the commissioner that the offender should be bound to appear for trial by the United States district court. If the case should be based on disputed points of law, or if it be too complicated for thorough presentation by the local forest officer, the services of the assistant to the solicitor or the law instructor should be requested through the regional forester by letter, wire, or telephone.

Report

If practicable a written statement of the facts of each case to be heard before a United States commissioner should be submitted to the regional forester prior to the date of hearing. In any event a full trespass report in triplicate (Outline 874-20) must be forwarded to the regional forester immediately after the preliminary hearing, unless the accused be discharged from custody by the commissioner. The regional forester should be informed of the reasons for the discharge of the accused and of the particular facts showing the insufficiency of the case of the Government.

Designated State, County, and City Officers May Act as Committing Magistrates in Federal Cases

Under section 591, title 18, United States Code a justice of the peace, probate judge, or other magistrate, or mayor of a city, may act as a committing officer, issue warrants of arrest on proper complaint for offenses against the laws of the United States, and hold a hearing to determine whether or not there is probable cause for requiring the accused to appear for trial in the United States district court.

The magistrate or mayor in a case conducted by him may use in a modified way the criminal forms adopted for practice before United States commissioners. A transcript of the entire proceedings, including copies of all writs issued and a statement showing the disposition made of the prisoner, should be submitted speedily by the magistrate or mayor to the clerk of the United

States district court. The transcript should be accompanied by an itemized account of the fees due the magistrate or mayor for acting in the case. These fees, corresponding to the amount paid by the county for similar services, will be paid.

If the office of a United States commissioner be easily accessible to a complaining forest employee, a criminal case should not be set before a magistrate or a mayor. It is advisable to have the consent of the magistrate or mayor to hold the hearing before him, before the offender is brought into his court. The reason for this is that the magistrate or mayor may not want to hear the case or may feel that he is not authorized legally to hear and pass on the evidence, or it may be that the necessary forms are not readily available for his use. The forest employee should do everything reasonable to assist in handling the case. Neither a magistrate nor a mayor is authorized to issue search warrants in Federal cases.

Criminal Forms

A limited number of specimen forms used in criminal cases are incorporated in Part V of this volume.

Defendant

The person charged with the commission of any crime against the United States is entitled to be represented by legal counsel at the preliminary hearing before the United States commissioner or committing magistrate. It is his right to take every possible technical advantage of the situation to procure the quashing or dismissal of the complaint. He should be informed of his right to do so, and he must be given ample opportunity to secure counsel.

Information; Indictment Complaint

After an accused person shall have been held or bound over for trial the next step in the criminal proceedings is the filing of an information or a complaint by the United States district attorney or the finding of an indictment by a Federal grand jury. If the offense be a felony or other infamous crime, the Constitution of the United States requires that the accused must be indicted. Only in case of a misdemeanor (an offense not punishable by imprisonment exceeding 1 year) or a petty offense, can an information or a complaint be filed in the United States district court. After

the filing of an information or a complaint or the finding of an indictment the case will be set for trial. All this work is under the direction of the United States district attorney.

Writs

Warrants of arrest issued by United States commissioners or by magistrates or mayors do not run outside the Federal judicial district. If it be desired to remove a person accused of crime to the judicial district within which the crime was committed the said warrant or a certified copy of it and a certified copy of the complaint or of the indictment or information must be sent to the Federal district attorney for the district where the accused is located, with the request that another warrant be issued for the arrest of the offender by a local United States commissioner. Upon a proper showing the warrant will issue, and the United States marshal or his deputy for the district in which the accused is found will execute the warrant. The prisoner is then entitled to a hearing before the United States commissioner who issued the second warrant for his arrest. If probable cause be found for holding the prisoner, the record of the proceedings will be sent to the judge of the United States court for the district where the offender has been apprehended.

The prisoner is entitled to notice of the proposal to remove him to the district or State where the alleged offense was committed and to a hearing before the judge requested to order the removal. At this hearing the prisoner may contest the right to remove him and introduce evidence to show want of probable cause or that the proceedings are irregular. Upon a satisfactory showing by the Government the judge will issue the warrant for the return of the accused to the State or district having jurisdiction to try the charges. As a rule removal proceedings are handled by the United States attorneys of the districts interested.

NOTE.—A United States judicial district may comprise a whole State or a part of a State.

Petty Offense under Federal Law

Title 18, section 541, United States Code, defines a petty offense as one for which the penalty does not exceed confinement in a common jail, without hard labor, for a period of 6 months, or a fine of not more than \$500, or both.

Limitation on Criminal Action in Federal Courts

No indictment shall be found nor shall any presentment be made without the concurrence of at least 12 grand jurors. All crimes and offenses committed against the United States which are not infamous may be prosecuted either by indictment, or by information or complaint filed by a district attorney. No person shall be prosecuted, tried, or punished for treason or other criminal offense, willful murder excepted, unless the indictment is found or the information is instituted within 3 years next after such treason or criminal offense is done or committed. (See United States Code, title 18, sections 554, 555, and 582.)

CRIMINAL PROCEDURE IN JUSTICES' COURTS OF MONTANA

Justice of the Peace

A justice of the peace in Montana is vested by law with criminal jurisdiction of a limited character. He has authority to hear criminal charges in all cases of misdemeanor where the penalty is a fine of not more than \$500 or imprisonment for not more than 6 months, or both. In this class of cases a justice may impose the penalty after the guilt of an accused person has been established in the legal way. Warrants of arrest, subpoenas, search warrants, and other writs necessary to enforce his authority may be issued by the justice. Under the law he is a magistrate. He may punish for contempt of his court.

Whenever the statutes provide that a certain function must be performed or exercised by a magistrate, a justice of the peace may do it. He may issue warrants for the arrest of persons charged with felonies and hold them for trial after preliminary hearing, although he has no power to try cases of felony.

In case of an offense against any Federal law he may act as a committing magistrate. For a discussion of the powers of a justice of the peace while acting as a committing magistrate under Federal law, refer to the article entitled "Designated State, county, and city officers may act as committing magistrates in Federal cases."

Felony

Under Montana law a felony is a crime punishable with death or imprisonment in the State prison. All other crimes are misdemeanors. It is well to remember that a county jail is not a State prison.

A crime declared to be a felony by the Montana Legislature is punishable by imprisonment in the State prison for not more than 5 years unless the legislature specifically provides otherwise. As a general rule, the legislature provides the penalty in the enactment, but in many instances it only classifies the crime, permitting the court to impose punishment under the general penalty. The prosecution for a felony is begun by the filing of an information by the county or prosecuting attorney or by the finding of an indictment by a grand jury of the county.

Misdemeanor

A misdemeanor is any crime not declared to be a felony by the Montana Legislature. The punishment for misdemeanor is a fine of not more than \$500 or imprisonment in the county jail for not more than 6 months, or both, unless a different punishment is specifically provided by law. It frequently happens that the legislature defines the penalty for a crime but does not specifically state whether the crime is a felony or misdemeanor. In this kind of case refer to the definition of felony and of misdemeanor in order properly to classify the crime. The prosecution for a misdemeanor is generally commenced by the filing of a complaint under oath. Sometimes the prosecution is begun by an information or an indictment.

Territorial Jurisdiction

Under the statute each township should elect two justices of the peace. The boundaries of each township are defined by the county commissioners. A justice of the peace may hold court for the justice of the peace of any other township in the county, upon the request of the latter. Any misdemeanor committed within the county may be tried by any justice of the peace of the county: *Provided*, That the penalty for such misdemeanor is not greater in fine or imprisonment, than a justice of the peace may impose legally. This is the general rule. However, there are a few

exceptions where the Montana Legislature has placed a few misdemeanors within the exclusive jurisdiction of district courts regardless of the amount of the statutory fine, or of the length of the period of imprisonment. The practice is, however, to bring the offender before the nearest justice for preliminary hearing or trial. While a justice of the peace may not be legally authorized to punish for a felony or a certain misdemeanor, he has jurisdiction as a magistrate to issue a warrant for the arrest of a person charged with a felony or other crime committed within the county and to bind the accused for trial.

Warrant of Arrest

A warrant of arrest or other writ issued by a justice of the peace *may be executed in any part of the State* by the sheriff, constable, marshal, or policeman of the county in which it was issued. A specimen warrant of arrest is shown under the subtitle "Criminal Forms." As a general proposition, a warrant of arrest or other writ of a justice of the peace must be directed for service to a sheriff, constable, marshal, or policeman. If the offense charged be against any of the forest-fire laws of the State, a duly qualified forest officer may also be directed to execute the warrant, because forest officers are generally designated fire wardens. Should there be no duly elected and qualified constable for the justice township, the justice of the peace may depute a special constable to serve a summons, subpoena, warrant of arrest, or other writ necessary to enforce his legal authority.

Complaint

All criminal actions in justice of the peace courts are begun by a complaint. This document must be under the oath of some person who from personal knowledge is familiar with the facts of the crime charged.

The Montana statute provides that the complaint must state:

- (1) The name of the person accused, if known.
- (2) The county in which the offense was committed.
- (3) The general name of the offense.
- (4) The persons against whom, or against whose property the offense was committed.
- (5) If the offense be against property, a general description of the property.

(6) Particulars as to time and place of the offense. It also provides that the crime may be defined in the words of the statute applicable in the case. The complaint must be subscribed and sworn to.

A specimen copy of a complaint may be found under the subtitle "Criminal Forms."

Arrest Without Warrant

A national-forest officer located in Montana may arrest without warrant a person violating in his presence any of the forest-fire laws of the State.

Any national-forest officer or employee who holds a commission as State deputy game warden may arrest without a warrant any one violating in his presence any of the fish or game laws of the State.

If the offense committed be a felony, such as *maliciously setting* on fire any timberland, the arrest may be made upon reasonable suspicion by the forest officer or employee, provided he has the qualifications defined above.

As a private citizen a forest employee may make an arrest for a public offense committed in his presence or when a felony has in fact been committed and he has reasonable grounds for believing that the person arrested committed it.

NOTE.—These powers are derived from the statutes of Montana and not by virtue of selection as national-forest employees.

Arrest

To make an arrest it is not necessary physically to seize the offender. If, upon the request of an officer, the accused subjects himself to the authority of the officer, the arrest is complete. However, if the accused will not submit, all force reasonably necessary to remove the prisoner to the presence of a justice of the peace for hearing may be used. Furthermore, the officer making the arrest may summon orally as many persons as he deems necessary to accomplish the arrest. An arrest under a warrant for a misdemeanor cannot be legally made at night unless under the direction of the justice or magistrate endorsing the warrant. In case of felony the arrest may be made during the day or night. The offender must be advised of the intention to arrest him and of the authority of the officer, except when the criminal is found engaged in the commission of the crime. Forest officers acting under the

authority of a warrant must show it to the accused. It is good practice to read it to the offender. All weapons found on the person arrested may be taken from him. They must be delivered to the magistrate or justice.

Limitation of Criminal Action

In case of misdemeanor a complaint, information, or indictment must be filed within 1 year from the date of the offense, or the action is legally barred. If the crime be a felony, the information must be filed or indictment must be found within 5 years from the date of the offense or the criminal prosecution cannot be legally commenced. There is no limitation on the commencement of legal proceedings to punish for murder or manslaughter. The above limitations do not apply if the offender has fled or removed from the State. They apply only to actual residents within the State. Upon return to the State where the offense was committed the offender may be prosecuted for the crime if his total residence in the State since the commission of the offense has not been more than the limitation period.

Extradition

If a person who has committed a grievous offense, escapes from the State before his prosecution he may be returned under extradition proceedings.

Extradition proceedings are very technical. They are handled by the governors of the two States interested. In the event of necessity the case should be submitted to the local prosecuting attorney, who will prepare the information and extradition petition. Do not mistake this practice for removal of offenders under the Federal law.

Rights of Defendant

A person formally accused of crime of any kind shall have the right:

(1) To appear and defend himself in person or by counsel.

(2) To demand the nature and cause of the action.

(3) To meet the witnesses face to face.

(4) To have process to compel the attendance of witnesses in his behalf whether they reside within or without the county in which he is to be tried.

(5) To have a speedy and impartial trial by a jury of the county in which the offense is alleged to have been committed.

(6) To have a change of venue upon a proper showing.

(7) Not to be prosecuted a second time for a public offense for which he was previously prosecuted and in respect to which he was convicted or acquitted.

(8) Not to be compelled to be a witness against himself.

(9) Not to be punished for a public offense except upon a legal conviction.

(10) Unless upon a plea of guilty, not to be convicted of a felony unless the verdict of a jury of 12 qualified persons is accepted and recorded by the court.

(11) Not to be punished for a misdemeanor except upon a plea of guilty, unless a verdict of "guilty" is delivered to the court by a legal jury. The defendant may waive a jury and submit his case to the judgment of the court.

(12) To be taken before the magistrate who issued the warrant for his arrest or some other magistrate of the same county if the alleged crime be a felony. (NOTE.—This is for preliminary hearing only.)

(13) If the crime charged is a misdemeanor and the arrest is made in another county, to be taken, upon his request, before the nearest magistrate in order to be promptly bailed. If bail be not furnished forthwith, the officer must take his prisoner before the magistrate who issued the warrant. Should the latter be absent or unable to act, the prisoner must be taken before the nearest or most accessible magistrate in the same county.

(14) To be brought as promptly as possible before the magistrate for hearing.

(15) To have reasonable opportunity to secure the services of counsel.

(16) If the defendant is brought before a justice other than the one who issued the warrant of arrest, to have the *complaint* on which the warrant was issued in the possession of that justice.

(17) In general, to be taken by the officer making the arrest before the nearest magistrate of the county in which the offense is triable. The officer must deliver to the magistrate the complaint and warrant with his return endorsed on the warrant.

(18) If arrested without a warrant, to be promptly taken before the nearest magistrate and to have a formal complaint under oath filed against him immediately, so that he may know definitely the nature of the charge against him. He is also entitled to all the rights above specified.

(19) To be present in court before the trial can proceed.

(20) To be protected by the provision that except in certain specified cases a wife cannot testify against her husband without his consent nor a husband against his wife without her consent.

(21) To appeal from a judgment of the justice's court and to have a trial anew in the district court.

(22) To be allowed upon arraignment, 1 full day to file his plea, unless he waives this privilege.

Bail

The prisoner at any time after his arrest and before his conviction may be admitted to bail by the justice's court.

Magistrates

A magistrate is an officer having authority to issue a warrant of arrest. In Montana justices of the supreme court, judges of the district court, justices of the peace, and police justices are magistrates. The magistrate may examine any person who files with him a criminal complaint to determine the degree of personal knowledge of the crime possessed by the complainant.

Peace Officers

Sheriffs, deputy sheriffs, constables, marshals, and policemen are peace officers.

Jury

In the court of a justice of the peace a legal jury is composed of six qualified persons. The defendant may agree to any number less than six persons, or the accused may waive his right to have a jury try his case and permit the court to hear and pass on the facts as well as the law of the case. The jury of a justice's court may be summoned orally by any sheriff, constable, marshal, or policeman of the county. If there be no duly qualified constable in the justice township, the justice is legally authorized to appoint a special constable to summon a jury.

The assent of two-thirds of the jury in a justice's court is all that is necessary for a verdict if the charge against the defendant be a misdemeanor. If the offense charged is a felony, the verdict of the jury in a district court finding the accused guilty must be based on unanimous consent.

If a jury be discharged without reaching a verdict, the defendant may be tried again. A jury may fix the punishment within the limitations provided by law. Should it fail to do so, the justice of the peace will fix it. An erroneous verdict may be modified by the court. Judicial, military, and civil officers of the State and of the United States are exempt from jury service. These officers must, however, respond if subpoenaed. Their claim for exemption should then be presented to the court.

Qualifications of Jurors

(1) A competent juror must be a male citizen of the United States over 21 years of age and not over 70.

(2) He must have been a resident of the State at least 1 year and of the county 90 days.

(3) He must be in possession of his natural faculties and of ordinary intelligence.

(4) He must have sufficient knowledge of the English language.

(5) He must have been assessed on the last assessment roll of the county on property belonging to him.

Information; Indictment

There is no substantial difference between an information and an indictment. Both are formal accusations of crime. The first is usually filed in the court by the county or prosecuting attorney, and the other is filed in the same place by a grand jury.

Grand Jury

In Montana a grand jury is composed of seven qualified men selected from the citizens of the county to inquire into any public offense committed in the county and to find an indictment of the offender.

Crimes Committed near Boundary

If a crime is committed in Montana within 500 yards of the boundary coincident to two counties, either county has jurisdiction to try the offender and impose a penalty. If property obtained through larceny,

burglary, or robbery be brought into a county from another county within Montana, either county has jurisdiction to try the criminal. A person who steals property in another State and brings it into Montana may be tried in any county into or through which the property has been brought.

Subpoena

A subpoena is a process or a writ by which the attendance of a witness is required at a specified time and place to testify regarding the matter in hearing. The subpoena may require the witness to bring with him into court any book, document, or other thing under his control which he is bound by law to produce as evidence. Service of a subpoena is made by showing the original and *delivering a copy* to the witness personally. If the witness does not respond after legal service, he may be punished for contempt of court. A subpoena may be served by any person. Usually it is served by a sheriff, marshal, constable, policeman, or game or fire warden. If it is served by a forest employee, he should make his return on the back of the original and return it to the justice. Upon failure of a witness to appear at the time and place specified in the subpoena, the justice may issue a warrant for the arrest of the witness. The warrant must be directed to the sheriff of the county for execution. The magistrate before whom the complaint is filed or before whom the case is set for trial usually issues the subpoena to the witness. The county attorney may also issue subpoenas for witnesses to support a prosecution, or to attend a sitting of the grand jury, or to support an information or indictment, or to appear before the court in which the trial is held.

No person is obliged to attend as a witness before a court or magistrate out of the county in which the witness resides unless the judge of the court in which the offense is triable, or a justice of the supreme court, or a judge of the district court, shall indorse on the subpoena an order to attend. This indorsement is usually attached to the subpoena after a proper showing is made by affidavit of the county attorney, of the materiality of the witness. The defendant or his counsel may also require the attendance of witnesses in his favor through the same channel. Fees are not advanced; but if the witness is too poor to pay the expenses pending reimbursement, the court may order the clerk to advance the

expenses of the witness. No fees are advanced to witnesses residing within the county.

A specimen copy of a subpoena is shown in the section entitled "Criminal Forms."

Witnesses

To be competent, a witness must be of sound mind. Generally speaking the witness must be over 10 years of age. A defendant in a criminal case cannot be compelled to be a witness against himself. He may, however, testify on his own behalf if he so desires. When he appears on the stand, he is subject to examination like any other witness, and his testimony may be used for or against him, as the facts warrant. When two or more persons are accused jointly of an offense, any one may testify against the other or others, but his testimony cannot be used later against him in the criminal action. The method of compelling witnesses to attend criminal trials is treated under the subtitle "Subpoena." If a witness willfully disobeys any lawful order, process, or writ of a court or magistrate, he is liable to a fine of not more than \$500 or to imprisonment for not more than 6 months, or both. In criminal cases the fees and expenses of witnesses living within the county need not be advanced. However, upon a showing of poverty the judge of the district court may draw a warrant on the county treasurer for the reasonable expenses of the witness. A witness at a hearing before a justice's court may be required to furnish an undertaking for his further appearance in the case. If he fails to furnish the security, he may be committed to jail until his deposition can be taken. For fees in a justice's court a witness is allowed for each day in attendance \$1.50 and 7 cents for each mile traveled to and from the place of hearing or trial.

Plea

Upon arraignment the accused may enter a plea of guilty, or he may offer a plea of not guilty and demand trial in the manner prescribed by law. If a plea of guilty be entered, the case need not be submitted to a jury. This plea is usually made orally. He may demur to the complaint or move to have it quashed.

Selection of Jury

A challenge to the entire panel may be offered by the defendant or the prosecution. The challenge must be

founded on some irregularity in the drawing. In a trial in a justice's court the defendant is entitled to four peremptory challenges and the State to four. A peremptory challenge is an objection to a juror for which no reason need be given. There is no limit to the number of challenges for cause. The court in each case passes on the challenge for cause. Challenges for cause are made for conviction of felony, unsound mind, being prejudiced, relationship to the defendant, agency, close business relationship to the defendant, having served on the grand jury that brought in the indictment, having formed an opinion as to the guilt or innocence of the defendant, and other reasons.

Postponement

Before the commencement of a criminal trial in any court either party to the proceedings may *upon good cause shown* have a reasonable postponement. The reasonableness of the request will be decided by the judge. Usually affidavits to support the request must be presented.

Prosecution of a Corporation for Crime

A corporation may be prosecuted for a criminal offense just as well as a natural person. The mode of procedure in general is very similar to that employed when a natural person is brought to the bar of justice. A criminal complaint may be filed before a justice of the peace charging a corporation by its corporate title with the offense committed by it. The justice will then issue what is known as a summons (a copy is shown in the section entitled "Criminal Forms"), which may be served in the same manner as a subpoena upon the president or other head of the corporation or upon the secretary, cashier, or managing agent.

Upon the day set for hearing, after proofs are submitted, the magistrate will certify upon the complaint that there is or is not probable cause for holding the corporation for trial in the district court. The magistrate will then send the complaint to the clerk of the district court, where the county attorney, on leave of the court, files an information against the corporation or has it indicted by a grand jury. Corporations are not punished for their crimes by justices' or police courts. The only function of the justice in this class of cases is to make a finding as to the probable guilt of the corporation and transmit it to the district court.

The county attorney then handles the prosecution of the corporation. Before proceeding against a corporation it would be advisable for forest officers to confer with the county or prosecuting attorney so as to reach a thorough understanding relative to the use of the evidence of guilt available and the method of procedure.

Trial

After motions and demurrers are disposed of, the first step in a criminal trial is the selection of a jury to try the case. The submission of evidence in natural order takes place next. Usually the State presents its side of the case first and the defense second. Each witness, whether for the prosecution or defense, must give testimony based on personal knowledge of the crime or of some fact tending to connect the accused with the crime.

All witnesses are subject to cross-examination and impeachment. Careful examination may be made to test their prejudices, their opportunity to observe, their intelligence, and their ability to get a mental picture of the occurrences which they relate. Most of this is done on cross-examination. There is one exception to this rule, and that is in the case of witnesses known as "experts." Within certain restrictions an expert witness may declare his opinion of the effect of facts known or presumed to be true.

The accuracy of maps, charts, photographs, and other exhibits presented for use at the trial may be tested, and the qualifications of the makers inquired into very closely. This rule applies also to the authors of technical books. In fact, it applies to everything submitted for the examination of the court and jury. (See "Maps and photographs.")

In presenting a case it should always be remembered that the judge is the arbiter of the law and the jury the judge of the facts. It is very necessary to present a case in plain, understandable English since, as a rule, a jury is composed of ordinary men of rather limited education. The answers of forest employees acting as witnesses in a criminal case should be in the simplest language possible, brief and to the point. Evasive answers make a bad impression on the court and jury.

A jury in a criminal trial must sit together after hearing the charge until they have reached a verdict or their disagreement is approved by the court. Mis-

conduct of a trial jury may be grounds for a new trial of the defendant, should it bring in a verdict of guilty. The jury may decide the case in the court room or retire for deliberation. The jury is sworn before it takes up the consideration of the evidence. The defendant must be present before the trial can be legally begun.

New Trial in General

A new trial may be granted on any of the following grounds: If the jury receives evidence for consideration outside of that submitted to the court; separation of the jury without leave of the court; misdirection of the jury by the court on any material point of law; when the verdict is contrary to the law and the evidence; discovery of new evidence not known to the defendant at time of trial and which could not have been discovered with reasonable diligence, etc.

Verdict

The verdict of a jury must be delivered to the court publicly. If there are several defendants, the jury may render a verdict as to those on which they have agreed. If they disagree regarding the others the court should be informed. Those regarding whom no verdict is reached may be tried by another jury. The assent of only two-thirds of the number on the jury is required for a legal verdict in a justice's court.

Judgment

If the accused be found guilty of a misdemeanor, the judgment of the court may be rendered in his absence. A judgment for felony in the district court must be delivered by the judge in the presence of the defendant. The judgment of a justice's or police court must be rendered not more than 2 days nor less than 6 hours after the verdict unless the defendant agrees to a different time.

Appeal

A defendant in a justice's or police court case may appeal from the judgment at any time within 10 days to the district court, where a new trial of the charges in every respect will be held. The notice of appeal is given in open court at the time of rendition of judgment or by a written notice within 5 days thereafter. In order to secure a new trial in the district court, an

undertaking to guarantee the fine and costs of the case must be filed in the justice's or police court. The defendant may be bailed pending his trial by the district court.

Police Courts

A police magistrate or justice is an officer having jurisdiction of misdemeanors and acts declared by ordinance to be offenses committed within cities or towns. His powers are like those of a justice of the peace.

Search Warrants

A search warrant is an order in writing issued by a magistrate to a sheriff, marshal, constable, policeman, or game or fire warden to search for personal property and bring it to the magistrate or justice.

This warrant is issued only upon a proper showing under oath that:

- (1) The property sought was stolen or embezzled.
- (2) The property sought was used in the commission of a felony.
- (3) The property is in possession of any person who intends to use it as a means of committing a *public offense*.
- (4) The property is in the possession of a person to whom the person intending to use it as a means of committing a public offense has delivered it.
- (5) The property is desired as evidence of a violation of any of the game laws of the State.

A writ of this character is issued only on a finding of probable cause to believe that the property exists and that it is within one of the classes defined above. The justice or magistrate is obliged under the law to examine carefully and fully the person making application for the search warrant before he issues it. The deposition of the applicant for the search warrant must be reduced to writing by the magistrate, and it must be subscribed and sworn to by the applicant. If the statutory requirements are not strictly complied with, the property may be returned to the claimant for it by the magistrate. The practice is to file a petition with the magistrate for its return and for its suppression as evidence. For further information on search warrants see the article entitled "Search warrants," under the heading "Criminal Procedure Before United States Commissioners." In the execution of a search

warrant the officer may break open any outer or inner door, or any window of a house, or any part of the house, if, after proper notice of his authority to the owner or occupant, he is refused admittance. Should the officer be locked into any room or part of the building while in the performance of his search, he may break open any part of the house to secure his liberation.

Unless the magistrate or justice specifies on the search warrant that it may be executed in the nighttime, it must be executed in the daytime. A return on the search warrant must be made to the justice or magistrate within 10 days from the date of its issuance.

The officer executing the search warrant should give an itemized receipt for the property taken to the person occupying the building from which it was removed. The law requires that this be done. If the building be unoccupied, the receipt may be posted on the inside of the building. A specimen copy of a search warrant is included under the subtitle "Criminal Forms."

Affidavit

An affidavit is a written declaration under oath, made without notice to the adverse party. It must be subscribed and sworn to by the affiant or person making the statement. Under United States Code title 5, section 93, any officer detailed to examine frauds, shall have authority to administer oaths to proposed witnesses.

In trespass cases forest employees should secure written statements signed by the persons interviewed and sworn to before the forest employee seeking the statements. Such statements should be prepared in the form of affidavits whenever possible. Furthermore, a statement of this character is an index to what the testimony of the affiant will be if he should be called or subpoenaed as a witness. Then, too, these statements are invaluable to the county attorney or law enforcement or prosecuting officer, since through them he obtains a definite idea of the testimony to expect from a witness at a trial.

Two forms of affidavits are published herein under the title "Criminal Forms." When it is intended to initiate proceedings in a State court the State form should be used as a guide in preparing affidavits of proposed witnesses. If it be necessary or advisable to institute a civil or criminal proceeding in a Federal court the Federal form should be followed.

Deposition

A deposition is the written declaration under oath of a witness outside of the jurisdiction of the trial court or unable to attend the trial because of illness or for other excusable cause. The party seeking the deposition must inform the other party to the cause of the date set for the taking of the deposition, so that he may have opportunity to appear and cross-examine the witness.

Usually a deposition is in the form of question and answer. The court in which a case is being heard or is to be heard will issue a commission to some magistrate or officer empowered to administer oaths to take the deposition desired. Unlike the ordinary affidavit, a deposition when properly obtained becomes admissible evidence at the trial of an accused person.

The magistrate before whom the deposition is to be made may force the deponent to attend by the usual method applicable to other persons whose testimony is required. A defendant in a criminal case may have depositions taken in his behalf, whether the deponents are within or without the State. The prosecution is entitled to the same advantage.

Criminal Responsibility

No person is criminally responsible for the crime of another, unless he took some part directly or indirectly in the commission of the offense. In a criminal sense "indirectly" does not mean innocently. If there had been a conspiracy between two or more persons to commit some public offense, all would be responsible for the crime committed, even though some took no active part in accomplishing the crime. Conspiracy is an exception to the general rule.

For example, two men are traveling together through the forest and both have been smoking cigarettes during travel across a specified area. It is known positively that no other person besides the two smokers passed over the route traversed within a certain hour. No lightning had existed in the region for more than a week. A cigarette fire was discovered within the hour on the route traversed. The presumption here is strong that one of the smokers started the fire by a lighted match or cigarette stub. On the theory that either one or the other must be guilty you cannot hold both criminally responsible for the fire even though they admit

that they were smoking while crossing the point where the fire occurred. You must prove which one is liable for the offense. Of course, if two or more persons are engaged in the commission of a public offense and, if, while attempting to consummate their criminal purpose, any one of them commits some crime other than that intended, all may be criminally responsible under certain circumstances.

To attach criminal responsibility to anyone, a suspicion, no matter how plausible or convincing, is not sufficient. Proof of the crime and of the responsibility of the accused for it must be clear, positive, convincing, and beyond a reasonable doubt. For a definition of "reasonable doubt" see the article under the subtitle "Evidence."

County or Prosecuting Attorney

The law has designated the county or prosecuting attorney as the officer to represent the State in criminal prosecutions. He is vested with large powers in this regard. In prosecutions for offenses against the fire, game, and other laws of the State he is generally willing to accept the advice and help of forest employees if the unlawful acts were committed within the boundaries of any national forest or in the vicinity of one. In practice many cases are tried in a justice's court which are not prosecuted or handled by the county attorney. Furthermore, the county attorney is the legal adviser of justices of the peace in his county, and forest employees should feel free to ask his advice in matters relating to law enforcement.

Juvenile Procedure

In Montana children under the age of 18 years, who offend against the laws of the State must be tried in the proper district court. Neither a justice of the peace nor a police court has jurisdiction in such cases. If a child be found guilty and the punishment for the offense is neither death nor life imprisonment, the court may withhold sentence or indefinitely suspend the judgment in the case. The child may be placed on probation or confined in any home or institution designated by the law of the State.

The procedure in Idaho in juvenile cases is very similar except that the jurisdiction of the children has been conferred on the probate courts of the various counties.

Under the Federal law a child under the age of 16 years found guilty of an offense must, if confined by order of the court, be detained in a house of refuge designated by the United States Attorney General. However, the judge of the Federal court may suspend the imposition or execution of the sentence in a proper case, and place the child on probation or confine the child in any available house of correction for juvenile delinquents within the State. (For procedure in Federal cases, see U.S.C., title 18, sections 705, 706, and 707.)

CRIMINAL PROCEDURE IN JUSTICES' AND PROBATE COURTS OF IDAHO

The procedure provided by the Idaho law for the conduct of criminal prosecutions before justices' and probate courts of the State is substantially similar to that of Montana. There are, however, eight material differences which are scheduled under this title. In regard to other points forest employees will find in the Montana rules of procedure, outlined in the preceding section, guidance in handling cases in the justices' and probate courts of Idaho. A probate judge in Idaho has no greater jurisdiction in criminal matters than a justice of the peace. His criminal jurisdiction is exactly measured by the statutory rules applicable to justices' courts.

Probate Court

A probate court is one over which presides a judge elected by the people of the particular county. The office and court of a probate judge are usually located at the county seat. Under the law he is a magistrate upon whom is conferred limited criminal jurisdiction. He can impose a penalty for a misdemeanor if the punishment prescribed by law is a fine of not more than \$300 or imprisonment in the county jail for not more than 6 months, or both. As a magistrate he is authorized to issue, upon a proper showing, warrants of arrest, search warrants, subpoenas, commitments, and all other writs necessary to enforce his jurisdiction.

Since a probate judge is a salaried officer of the county, it is the general practice to have tried before him all misdemeanors committed within the county over which he has jurisdiction. In this way the fees which a justice of the peace charges for his services are saved to the county. As a rule the prosecuting attor-

ney requires that trials of this character be held before the probate judge. Frequently, however, the prosecuting attorney will permit the hearing or trial of a criminal case before a justice in an isolated locality, especially when the cost of transporting the offender and witnesses to the county seat will exceed the fees paid to the local justice and the witnesses. Forest employees should not put the county to unnecessary expense in handling prosecutions for misdemeanors.

Justice of the Peace

In Idaho justices of the peace are elected from judicial units known as precincts. A precinct in Idaho corresponds to a judicial township in Montana. The justice must hold court in his precinct except when he is called into another precinct to act for another justice. He can impose punishment only when the penalty is a fine of not more than \$300 or imprisonment for not more than 6 months in the county jail or both.

Felony

The punishment provided by the law of Idaho for the commission of any felony is a fine of not more than \$5,000 or imprisonment in the State prison for not more than 5 years, or both. This is the rule except where other punishment for a felony has been specifically provided by a statute of the State, such as the penalty for murder, perjury, manslaughter, mayhem, kidnaping, or robbery.

Misdemeanor

Unless otherwise specifically provided by statute, the punishment in Idaho for a misdemeanor is a fine of not more than \$300 or imprisonment for not more than 6 months in the county jail, or both.

NOTE.—Felonies and misdemeanors are classifications of crime. Neither one is the distinctive name of an offense.

Crimes Committed on Vessels or Trains

In Idaho the jurisdiction of an offense committed on a train or aboard any vessel is in any county through which the train or vessel passed or in the county where the trip terminated.

Limitation on Criminal Action

An indictment for felony, other than murder, must be found in Idaho within 3 years from the date of the

offense. Otherwise the limitations are the same as in Montana.

Jury

In a justice's or probate court in Idaho a legal jury is composed of 12 qualified persons. At the trial of a misdemeanor, however, the State and the defense may agree upon any number less than 12, or the parties may waive a trial by jury. The assent of five-sixths of the number serving on the jury is all that is required for a legal verdict in a justice's or probate court in Idaho.

Witnesses

The rule of procedure for compelling witnesses to attend criminal trials before justice's and probate courts in Idaho is very similar to that in Montana. There is an exception relative to fees. In Idaho a witness is allowed by law \$2 for each day of legal attendance, and 25 cents per mile one way. There is also a difference as to the number that may be subpoenaed by the State or defendants. No more than three witnesses may be subpoenaed by the State or defendants. No more than three witnesses may be subpoenaed by either party at the expense of the county except upon the order of the judge. This order is usually based on the affidavit of the defendant or the prosecuting attorney showing that the testimony of the proposed witness is material and that it is not safe to go to trial without it.

CRIMINAL PROCEDURE IN THE STATES OF WASHINGTON AND SOUTH DAKOTA

Since only a very small part of the national forest area of region 1 lies within the States of Washington and South Dakota, the criminal procedure in justices' courts of these States is not defined in this volume.

It may safely be said, however, that the criminal procedure is substantially the same as that in Montana. There are minor differences, of course; but on the whole it is believed that the rules elucidated in the Montana portion of this work will be ample as a guide for the employees of the Kaniksu and Custer National Forests who have to deal with criminal offenses committed within their respective administrative districts. In case of doubt ask the regional forester or the local prosecuting attorney for instructions.

**Part V.—CRIMINAL FORMS IN USE BY
UNITED STATES COMMISSIONERS
AND BY STATE, JUSTICES', AND PRO-
BATE COURTS**

CRIMINAL COMPLAINT

(Federal fire law form)

UNITED STATES OF AMERICA,
District of Montana, ss:

Before me, Hugh Smith, a United States commissioner for the district of Montana, personally appeared this day James Corbett, who being first duly sworn, deposes and says: That in the State and district of Montana, on or about the 3d day of August, 1933, Thomas A. Lawson, in violation of section 106, title 18, United States Code, did then and there willfully and unlawfully set on fire (or cause to be set on fire) timber, brush, and grass upon the public domain of the United States of America, to wit, on section 2, township 16 north, range 12 west, Montana meridian, within the Lolo National Forest, against the peace and dignity of the United States of America and contrary to the form of the statute of the said United States of America in such cases made and provided.

JAMES CORBETT.
(Signature of affiant)

Subscribed and sworn to before me this 5th day of August 1933.

HUGH SMITH,
United States Commissioner as aforesaid.

(135)

CRIMINAL COMPLAINT

(General Federal form)

UNITED STATES OF AMERICA,

----- *District of* -----, ss:

----- DIVISION

Before me, -----, a United States commissioner for the ----- district of -----, ----- division, personally appeared this day -----, who, being first duly sworn, deposes and says, that on or about the ----- day of -----, A.D. 1921, at ----- in said district,

 in violation of -----

(Insert section number and title of United States Code)

did then and there unlawfully -----

contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the United States of America.

Deponent further says that he has reason to believe and does believe that -----
 ----- are material witnesses to the subject matter of the complaint.

 (Deponent's signature)

Subscribed and sworn to before me, this ----- day of -----, A.D. 19--.

[SEAL]

-----,
U.S. Commissioner as aforesaid.

CRIMINAL COMPLAINT

(Larceny of property of the United States form)

UNITED STATES OF AMERICA,

District of Montana, ss:

Before me, a United States commissioner for the district of Montana, personally appeared this day Archibald Silver, who being by me first duly sworn, deposes and says that, heretofore to wit, on or about the 1st day of August, 1933, in the county of Missoula and within the State and district of Montana, Ernest Giddings then and there being, did then and there, in violation of section 82, title 18, United States Code.

wrongfully, willfully and unlawfully steal, take, and carry away for his own use, from another to wit, from Silas M. Jones then and there the forest officer at the Highball Ranger Station, certain personal property belonging to the United States described as follows: Forty woolen blankets which were then and there stored at the aforesaid Highball Ranger Station, the said wrongful, willful and unlawful stealing, taking, and carrying away by the said Ernest Giddings being with intent in him to deprive the United States of the said property, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

ARCHIBALD SILVER.

Subscribed and sworn to before me this 10th day of August 1933.

DAN Q. WILTON,
United States Commissioner.

CRIMINAL COMPLAINT

(Receiving stolen property form)

UNITED STATES OF AMERICA,
District of Montana, ss:

Before me, a United States commissioner for the District of Montana, personally appeared this day Roger Mann who, being by me first duly sworn deposes and says that, heretofore to wit, on or about the 7th day of July, 1933, at Bonner, in the county of Missoula, and within the State and district of Montana, James Bryan then and there being, did then and there in violation of section 101, title 18, United States Code, wrongfully, willfully and unlawfully receive and retain in his possession with intent to convert to his own use certain personal property belonging to the United States of America described as follows: One standard compass and one motor truck. That the aforesaid James Bryan then and there knew that the said compass and motor truck then and there belonged to and had theretofore been stolen from the United States of America, and that the said James Bryan did then and there receive the said stolen personal property with intent in him to deprive the United States of the same, contrary to the form of the statute in such case made

and provided and against the peace and dignity of the United States of America.

ROGER MANN.

Subscribed and sworn to before me this 20th day of July 1933.

DAN Q. WILTON,
United States Commissioner.

CRIMINAL COMPLAINT

(State specimen form)

[This form, slightly modified, may be used in any State in region 1. In the State of Idaho the word precinct should be inserted instead of township.]

In the justice court of Hellgate Township of the State of Montana in and for the county of Missoula, before Oscar Jensen, justice of the peace.

STATE OF MONTANA, PLAINTIFF	} Complaint
<i>v.</i>	
GEORGE W. PAINE, DEFENDANT	

STATE OF MONTANA, } ss:
County of Missoula

Personally appeared before me this day John H. Clack, who, being duly sworn complains and says that, George W. Paine is accused by this complaint of the crime of kindling a camp fire in the closed season on land not his own and of leaving the same unquenched, a misdemeanor, committed as follows: The said George W. Paine being in the county and State aforesaid, did then and there on or about August 12, 1933, kindle a camp fire on land not his own and dangerously near forest material to wit, on the left bank of Cripple Creek in section 5, township 14 N., range 20 W., Montana Meridian, and that the said George W. Paine did then and there wrongfully, willfully and unlawfully leave the said fire unquenched, all of which is contrary to the form, force, and effect of the statute in such case made and provided and against the peace and dignity of the State of Montana.

Said complainant therefore prays that a warrant be issued for the arrest of the said George W. Paine and that he be dealt with according to law.

JOHN H. CLACK.

Subscribed and sworn to before me this 14th day of August 1933.

OSCAR JENSEN,
*Justice of the Peace, Hellgate Township,
Missoula County, Mont.*

WARRANT OF ARREST

(Federal form)

*The President of the United States of America, to the Marshal of the United States for the ----- District of -----, and to his deputies, or any or either of them.*¹

Whereas, ----- has made complaint in writing under oath before me, the undersigned a United States commissioner for the ----- district of -----, ----- division, charging that ----- late of ----- county, in the State of ----- did, on or about the ----- day of -----, A.D. 19--, in said district, in violation of -----

(Insert section number and title of United States code)
willfully and unlawfully set fire to timber, underbrush and grass on the public domain of the United States of America, contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the United States of America.

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to apprehend the said ----- wherever found in your district, and bring his body forthwith before me or any other commissioner having jurisdiction of said matter, to answer the said complaint, that he may then and there be dealt with according to law for the said offense.

¹ If the crime be against any of the laws or regulations applicable to the national forests, the words "or any national forest employee" may be inserted in the warrant after the word "them."

Given under my hand and seal this ----- day of
----- A.D. 19--.

[SEAL]

-----,
U.S. Commissioner as aforesaid.

RETURN OF WARRANT OF ARREST

(Federal form)

Received this warrant on the ----- day of -----,
19--, at -----, and executed the same by arresting
the within named ----- at -----, on the ----- day
of -----, 19--, and have --h---- bod----- now in
court, as within I am commanded.

United States Marshal,
----- District of -----
Per -----,
Deputy.

----- day of -----, 19--

NOTE.—If the warrant of arrest be executed by a
national forest employee, the return should be made
under the name and title of the employee instead of
under the name of the United States marshal.

WARRANT OF ARREST

(Idaho form)

In the justice court of Roughneck precinct of the State
of Idaho, County of -----;

The State of Idaho to any sheriff, constable, marshal,
or policeman in this State:

Complaint, upon oath, having been this day made
before me, Daniel O'Leary (justice of the peace or pro-
bate judge, as the case may be), by C.D., that the
offense of ----- (designating it generally) has been
committed, and accusing E. F. thereof; you are there-
fore commanded forthwith to arrest the above-named
E. F. and bring him before me forthwith at -----
(naming place), or, in case of my absence or inability
to act, before the nearest and most accessible magis-
trate in and for the said county.

Witness my hand at ----- this ----- day of -----
A.D. 19-- (and if in probate court, seal of court).

DANIEL O'LEARY,
*Justice of the Peace, Roughneck Precinct,
Clearwater County, Idaho.*

NOTE.—If the offense be against any of the game laws of the State, the words "game warden" may be inserted after the word "policeman." If the offense be against the fire laws of the State, the words "fire warden" may be inserted after the word "policeman."

WARRANT OF ARREST

(Montana form)

In the justice court of Hellgate Township of the State
of Montana,
County of Missoula:

The State of Montana to any sheriff, constable,
marshal, or policeman in this State:

Complaint upon oath having been this day made
before me, Hiram Crabb (justice of the peace or police
judge, as the case may be), by C. D., that the offense
of ----- (designating it generally) has been com-
mitted and accusing E. F. thereof, you are hereby
commanded forthwith to arrest the above-named
E. F. and bring him before me forthwith, at -----
(naming the place) or, in case of my absence or inability
to act, before the nearest and most accessible magis-
trate in and for the said county.

Witness my hand and seal at ----- this -----
day of -----, A.D. -----.

HIRAM CRABB,
*Justice of the Peace,
Hellgate Township, Missoula County*

NOTE.—If the offense be against any of the game laws
of the State, the words "game warden" may be in-
serted after the word "policeman." The words "fire
warden" may be inserted after the word "policeman"
if the crime be against any of the forest-fire laws of the
State.

RETURN OF WARRANT OF ARREST

(State form)

The return of a warrant of arrest issued by a State magistrate or justice should be substantially in the same form as that given herein for a warrant issued by a United States commissioner. The indorsement or return of the officer who executed the warrant should be on the back of the original delivered to the magistrate or attached to it.

SEARCH WARRANT

(Federal form)

UNITED STATES OF AMERICA,

-----*District of*-----, ss:

*To the marshal of the United States for the, -----
District of ----- and his deputies, or to any of them,
and to any United States forest officer:*

Whereas complaint by written affidavit and by deposition duly sworn to has this day been made before me -----, a United States commissioner in and for the said district, by -----, alleging that he has good reason to believe, and does verily believe, that, within a certain -----, being the premises of -----, and being situated in the city of -----, in the county of -----, and State of -----, and within the district aforesaid, there are held and concealed unlawfully,

and which are possessed contrary to the form of the statute in such case made and provided.

The said ----- has set out in his affidavit and deposition the following particular facts upon which his belief that the said property is unlawfully concealed in the aforesaid premises is founded, to wit: -----

You are therefore hereby commanded, in the name of the President of the United States, to enter said premises in the daytime with the necessary and proper assistance, and there diligently to search for any such ----- and to seize and secure the same, if any such be found, and to hold and dispose of the same, subject to the order of the District Court of the United States for the ----- District of -----, and what you

shall have done in the premises, do you then and there make return thereof, together with this writ and a written inventory of the property seized by virtue of the warrant, which inventory shall be subscribed and sworn to by you. You are also hereby commanded to make your return on this writ within 10 days from and after this date.

Given under my hand and seal on this ----- day
of ----- 19--

[SEAL]

-----,
United States Commissioner for
----- *District of* -----

AFFIDAVIT FOR SEARCH WARRANT

(Federal form)

UNITED STATES OF AMERICA,
----- *District of* -----, ss:

Be it remembered, that on this ----- day of -----,
19 --, before me, -----, a United States commissioner
for the ----- District of ----- came -----, who
being by me duly sworn, deposes and says that he has
good reason to believe, and does verily believe, that
within a certain ----- being the premises of -----,
and being situated in the city of ----- in county of
-----, and State of -----, and within the
district above named, there are held and concealed
unlawfully, ----- and which are pos-
sessed contrary to the form of the statute in such case
made and provided. That the particular grounds for
his belief are:

(Signature of affiant.)

United States Commissioner for the
----- *District of* -----

SEARCH WARRANT

(State form)

In the justice court of Hellgate Township (or precinct)
for the State of -----, County of -----:

The State of ----- to any sheriff, constable, marshal,
or policeman in the county of ----- Proof by affi-
davit having this day been made before me by Henry
Standish, who has good reason to believe, and does
believe, that there is held and concealed unlawfully
certain property described as follows: -----
(which was stolen, or which was held with intent to use
it in committing a public offense, or which is evidence
of violation of the game laws of the State, as the case
may be) in the premises described as the dwelling house
situate on the ranch of John Smith, and occupied by the
said John Smith, in section 35, T. 49 N., R. 3 E., within
the county of ----- State of ----- The said -----
has set out in his affidavit and deposition the following
facts upon which his belief is founded, that the property
described herein is concealed and withheld unlawfully,
to wit: -----

You are therefore commanded, to make immediate
search in the daytime of the premises above described
for the property defined by this warrant, and if you
find the same or any part thereof to bring it before me
forthwith, together with your return on this warrant,
and an inventory of all property seized by authority of
this warrant, subscribed and sworn to by you.

Given under my hand, and dated this ----- day of
----- 19 --

PHILIP COHEN,
Justice of the Peace.

NOTE.—If the offense be against the game laws of
either Montana or Idaho, the words "game warden"
may be inserted in a search warrant after the word
"marshal".

AFFIDAVIT FOR SEARCH WARRANT

(State form)

COUNTY OF MISSOULA,

State of Montana, ss:

Thomas Spencer, being duly sworn, deposes and says: That he has good reason to believe, and does believe, that within a certain dwelling house, the premises of (or occupied by) Ezra Breckenridge, and situate on section 4, T. 13 N., R. 24 W., M.M., County of Missoula, State of Montana, there are held and concealed unlawfully the bodies of two deer or parts thereof, which were killed in violation of the laws of Montana and which are possessed contrary to the form of the statute in such case made and provided. That the facts upon which his belief is founded are as follows:-----

THOMAS SPENCER.

Subscribed and sworn to before me this ----- day
of ----- 19--.

JOSEPH DESCHAMPS,
*Justice of the Peace for Hellgate Township,
Missoula County, Montana.*

SUBPOENA

(Federal form)

UNITED STATES OF AMERICA

----- *District* -----, ss:
----- *Division*

*The President of the United States of America, to the
marshal of the ----- district of -----, greeting:*

You are hereby commanded to summon -----
if ----- be found in your district, to be and appear
before me, -----, a United States commissioner for
the district of -----, ----- division aforesaid, at my
office, -----, on the ----- day of ----- 19--,
at ----- o'clock -- m., to give testimony, and the
truth to say, in a cause pending before me, wherein the
United States is complainant and ----- defendant.

Hereof fail not, under the penalty of the law, and have you then and there this writ.

Given under my hand and seal, this ----- day of ----- A.D., 19--.

[SEAL]

-----,
United States Commissioner as aforesaid.

SUBPOENA

(State form)

In the justice court of Hellgate township (or precinct) of the State of -----

The State of ----- to Richard Buckhouse:

You are commanded to appear before Issac Hodgins, a justice of the peace of Hellgate township (or precinct), in Missoula County, on July 24, 1934, at 10:00 a.m., at the office of the said justice in the city of Missoula, as a witness in a criminal action prosecuted by the State of Montana against Abram Bornstien.

Given under my hand this 14th day of July 1934.

ISAAC HODGINS,
Justice of the Peace,

Hellgate Township, Missoula County, Mont.

NOTE.—A similar subpoena may be issued by the county or prosecuting attorney when he is investigating a criminal offense committed in his county.

SUMMONS TO CORPORATION

(State form)

COUNTY OF-----

State of-----, ss:

To the Northern Pacific Railway Co., a corporation:

You are hereby summoned to appear before me, at my office in Missoula, Mont., on July 28, 1934, at 9:30 a.m., to answer a charge made against you on the complaint of Duncan O'Reilly for setting on fire and burning slashings within the county of Missoula, State of Montana, without first having obtained permission in writing to burn the said slashings, from a forester, or from a forest ranger, or from a fire warden, of the State of Montana.

Dated at the city of Missoula, State of Montana,
this 29th day of July 1934.

ADOLPH SCHAUER,
Justice of the Peace,
Hellgate Township, Missoula County, Mont.

RETURN AND CERTIFICATE OF SERVICE OF SUMMONS ON
A CORPORATION

(State form)

STATE OF IDAHO,
County of Bonner, ss:

I hereby certify that I received the annexed summons on the 4th day of August 1934, and personally served the same, together with a copy of the complaint in said action, on the defendant corporation named in said summons, by delivering to and leaving with Amos Switzer, the president of the said corporation, personally, on the 5th day of August 1934, in the said county of Bonner, State of Idaho, a copy of said summons and a copy of said complaint.

Dated this 6th day of August 1934.

PATRICK HENRY,
Sheriff of Bonner County, Idaho.

NOTE.—Any competent person over 18 years of age may serve a summons. If served by a person other than an officer, such as a sheriff, constable, etc., the return or certificate of service should be in the form of an affidavit of the person who made the service. The substance of the affidavit should be similar to the return above outlined.

RETURN AND CERTIFICATE OF SERVICE OF SUBPOENA
IN A CRIMINAL ACTION

(State form)

STATE OF IDAHO,
County of Kootenai, ss:

I hereby certify that I served the within subpoena on the 9th day of August, 1934, on Roger McParland, being the witness named in said subpoena, at Kootenai

County, by showing the original to the said witness personally and informing him of the contents thereof.

Dated August 10, 1934.

BRIAN McMAHON,
Sheriff of Kootenai County, Idaho.

NOTE.—Any competent person over 18 years of age may legally serve a subpoena issued by a State magistrate. Should it be served by a private citizen, his return should be in the form of an affidavit similar in substance to the certificate above outlined.

COMMITMENT OF DEFENDANT

(Federal form)

UNITED STATES OF AMERICA,
----- *District of* -----, ss:
----- *Division*

The President of the United States of America, to the marshal of the ----- district of -----, ----- and to the keeper of the jail of -----, in the State of ----- (or of any other jail within the ----- district of -----, to whom these presents may come), greeting:

Whereas, -----, ha-- been arrested upon the oath of ----- for having on or about the ----- day of -----, 19--, in said district, in violation of section -----, title -----, United States Code unlawfully

And after an examination being this day had by me, it appearing to me that said offense had been committed and probable cause being shown to believe said ----- committed said offense as charged, I have directed that said ----- be held to bail in the sum of ----- dollars, to appear at the first day of the next term of the district court of the United States for the ----- district of ----- division, at -----, and from time to time thereafter to which the case may be continued and he having failed to give the required bail;

Now these are therefore, in the name and by the authority aforesaid, to command you, the said marshal, to commit the said ----- to the custody of the keeper of said jail of ----- (or of any other county in the district above named to whom this commitment may be presented) and to leave with said jailer a certified copy of this writ; and to command you, the keeper of

jail of said county, to receive the said -----, prisoner of the United States of America, into your custody, in said jail, and ----- safely to keep until ----- be discharged by due course of law.

In witness whereof, I have hereunto set my hand and seal at my office in said district this ----- day of -----, A.D. 19--.

-----,
United States Commissioner,
 ----- *District of* -----, ----- *Division.*

BAIL BOND OR RECOGNIZANCE

UNITED STATES OF AMERICA,
 ----- *District of* -----, ss:
 ----- *Division*

BE IT REMEMBERED, That on this ----- day of -----, A.D. 19--, before me, -----, a United States commissioner for the said ----- district of -----, ----- division, personally came -----, principal, and

 sureties, and jointly and severally acknowledged themselves to owe the United States of America the sum of ----- dollars, to be levied on their goods and chattels, land and tenements, if default be made in the condition following, to wit:

THE CONDITION of this recognizance is such that if the said ----- principal, shall personally appear before the district court of the United States in and for the ----- district of -----, on the day ----- of the ----- term, 19--, to be begun and held at the city of -----, -----, at ----- o'clock ---m., and from time to time thereafter to which the case may be continued and then and there answer the charge of having, on or about the ----- day of -----, A.D. 19--, within said district, in violation of section -----, title ----- of the United States Code unlawfully-----

 and then and there abide the judgment of the said court, and not depart without leave thereof, then this recognizance to be void, otherwise to remain in full force and virtue.

----- [SEAL]
 ----- [SEAL]
 ----- [SEAL]
 ----- [SEAL]

Taken and acknowledged before me on the day and year first above written.

[SEAL]

United States Commissioner as aforesaid.

NOTE.—For specimen bond or undertaking required by the State law, see the code of the State in which the offense was committed.

AFFIDAVIT OF SURETY

UNITED STATES OF AMERICA,

District of _____, ss:

Division _____

_____, a surety on the annexed recognizance, being duly sworn, deposes and says that he resides at _____, in the _____ of _____ in said district, that he is a freeholder in the _____ of _____, that he is worth double the sum of _____ dollars, over and above all his just debts and liabilities, in property subject to execution and sale, and that his property consists of _____

(Affiant's signature.)

Sworn to and subscribed before me, this _____ day of _____, A.D. 19__.

[SEAL]

United States Commissioner as aforesaid.

COMMITMENT OF WITNESS

(Federal form)

UNITED STATES OF AMERICA,

District of _____, ss:

The President of the United States of America to the marshal of the _____ district of _____ and to the keeper of the jail of _____ county in the State of _____, or of any other jail within the _____ district of _____, to whom these presents may come, greeting:

Whereas _____ has been arrested upon the oath of _____ for having, on or about the _____ day of _____, 192__, in said district, in violation of section _____, title _____, of the United States Code, unlawfully _____

And, after an examination being this day had by me, and it appearing to me that said offense has been committed, and probable cause being shown to believe said _____ committed said offense as charged, and I having directed that the said _____ be held for the grand jury of the United States for said district, and

Whereas it appears that _____ and _____ are material and necessary witnesses on behalf of the United States in relation to the said charge, and the judge of this court having directed that the said witnesses, in default of their furnishing a recognizance for their appearance before the said grand jury, be committed by the undersigned; and

Whereas I have directed that the said witnesses be recognized in the sum of _____ dollars each, to appear at the first day of the next term of the district court of the United States for the _____ district of _____, at _____, on the _____ day of _____, 192____, and from time to time thereafter to which the case may be recontinued, and they having failed to give the required recognizance:

Now, therefore, in the name and by the authority aforesaid, to command you, the said marshal, to commit the said _____ and _____ as detained witnesses, to the keeper of the jail of _____ County, or of any other county in the district above named to whom this commitment may be from time to time presented, and to leave with said jailer a certified copy of this writ; and to command you, the said keeper of said jail in said county, to receive the said _____ and _____, detained witnesses of the United States of America, into your custody, in said jail, and them there safely keep until they be discharged by due course of law.

In witness whereof, I have hereunto set my hand and seal at my office in said district, this _____ day of _____, A.D. 19____

United States Commissioner,

District of _____

COMMITMENT OF DEFENDANT

(State form)

COUNTY OF BOUNDARY,

*State of Idaho, ss:**The State of Idaho to the Sheriff of the County of
Boundary:*

An order having been this day made by me, that A B be held to answer upon a charge of (stating briefly the nature of the offense and giving as nearly as may be the time when and the place where the same was committed), you are commanded to receive him into your custody and detain him until he is legally discharged.

Dated this 12th day of July 1934.

JAMES MONROE,

*Justice of the Peace of Bonner's Ferry Precinct,
Boundary County, Idaho.*

AFFIDAVIT

(Specimen)

(General Purposes—State Form)

STATE OF-----

County of -----, ss:

Myles Standish being duly sworn deposes and says:

That he is about 35 years of age and that he resides on his ranch situated in section 1, T. 58 N., R. 5 W., B.M.; that he receives his mail through rural free delivery route no. 1, Priest River, Idaho.

That on July 29, 1934, he was employed as a fire patrolman by the Pend Oreille National Forest at the Bismarck Ranger Station; that on this date his attention was directed at 3:30 p.m. by Lookout John Smith, to the Beaver Creek fire in section 36, T. 62 N., R. 5 W., B.M.; that he immediately started toward the fire which he reached at 4 p.m.; that on the trip he was accompanied by Dan Curtin and Pat Webster, who were employed by the Forest Service to fight the fire.

That upon reaching the fire he learned from Tom Smith, a local sawmill operator, that the fire started at about 3 p.m. in slashings lying on the land of the Bonners Ferry Lumber Co., which is leased to Roderick Armstrong for agricultural purposes; that Armstrong

started the fire with a view to burning the slashings in the process of clearing the land; that during an interview with Roderick Armstrong on the same day he (Armstrong) admitted that he started the fire at about 3 p.m. of that day, without having received the permit required by the Idaho law to burn the slashings, from a State fire warden or from any other officer authorized to issue such permit.

That while at the Beaver Creek fire he personally observed and collected the following additional facts:

 (Give a brief statement here showing the point of origin of the fire and the size of the same upon the arrival of the affiant at it, the courses of the wind at that hour and throughout the remainder of that day and the directions in which the fire was spreading, the number of days since rain fell on the land involved, the size, kind, and age of the slashings and the kind of timber and other forest material threatened by the fire, the distance between the outer edge of the fire and the nearest land and timber owned by the United States, the kind of effort made by the man or agency responsible for the fire to suppress it, the action taken by other employees of the Forest Service to suppress the fire and the times when actual work on such fire was begun by such employees, the number engaged in the suppression work and a description of the time it required to complete the work, the total area of privately owned land and land of the United States burned over by the fire and a description of the legal subdivisions covered by the fire. The names and post-office addresses of all persons who furnished material information to the affiant should be set out and the particular facts within the personal knowledge of each person should be indicated. Information on distances between material points should be based on measurements by chain, tape, or pacing. Any other information which the affiant believes has a bearing on the fire should be set out in his affidavit).

-----,
Signature of Affiant.

Subscribed and sworn to before me this ----- day
 of -----, 1934.

-----,
Senior Forest Ranger.

AFFIDAVIT

(Specimen)

(General Purposes—Federal Form)

UNITED STATES OF AMERICA,

District of Montana, ss:

Nathan Allen being duly sworn deposes and says:

That he is employed at the warehouse of the United States Forest Service, which is situated on Division Street, Spokane, Wash.; that on February 21, 1934, while employed there he observed that during the previous night 10 tires had been removed and stolen from 5 different Chevrolet automobiles which were stored in the said warehouse; that immediately after discovering the loss he reported the theft to Captain Curley of the Spokane Police Detective Bureau; that Officers Peter Johnson and Daniel Gregg were assigned to assist him in the investigation of the theft; that accompanied by the said officers, he proceeded to several pawnshops in Spokane with a view to finding and identifying the stolen tires.

That late in the afternoon of February 22, 1934, he found in the pawnshop of Oliver Cromwell, 329 Trent Avenue, the 10 tires above referred to; that Mr. Cromwell explained to him and the two officers above mentioned, the circumstance under which he purchased the tires from a man who gave his name as Tom Delaney and that Delaney was a former garage man who maintains his residence at room 6, Dempsey Hotel, Spokane; that the tires were seized by him and the same returned to the warehouse of the Forest Service.

That in the afternoon of February 22, 1934, he and the officers visited the Dempsey Hotel where Tom Delaney was found and questioned by the officers, that Delaney then denied that he had stolen the tires or ever visited the warehouse of the Forest Service; that Delaney was then forced by the officers to proceed to the pawnshop of Oliver Cromwell; that after reaching the pawnshop Mr. Cromwell positively identified Delaney as the man who brought the 10 tires to the pawnshop on February 21, 1934, and sold them there for the sum of \$15.

That after a brief conversation with Tom Delaney he (Delaney) admitted that he stole the tires during

the night of February 20, 1934, from the warehouse of the Forest Service on Division Street, and that in order to obtain the tires he forced an entrance through one of the rear windows of the said warehouse.

That Delaney was subsequently taken to the Spokane County jail where he is awaiting a hearing before United States Commissioner Mulroney of Spokane upon a complaint which he (Nathan Allen) filed on February 22, 1934, charging Delaney with having stolen the tires; that Peter Petersen and Oscar Giddings, employees of the warehouse above described have identified the tires as those taken from the Chevrolet automobiles above defined.

NATHAN ALLEN.

Subscribed and sworn to before me this 23d day of February 1934.

ERNEST MILLIKAN,
National Forest Inspector.

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